



## REGULAR MEETING OF THE SAN MARCOS PLANNING AND ZONING COMMISSION

Tuesday, July 13, 2010, 6:00 p.m.  
Council Chambers, City Hall  
630 E. Hopkins Street

Sherwood Bishop, Chair  
Bill Taylor, Vice-Chair  
Randy Bryan, Commissioner  
Bucky Couch, Commissioner  
Jude Prather, Commissioner  
Curtis O. Seebeck, Commissioner  
Jim Stark, Commissioner  
Chris Wood, Commissioner  
Travis Kelsey, Commissioner

### AGENDA

1. **Call to Order.**
2. **Roll Call.**
3. **Chairperson's Opening Remarks.**
4. **NOTE:** *The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session;*
5. **Citizen Comment Period.**
6. **CUP-10-15.** Hold a public hearing and consider possible action on a request by Cinema Grill, Inc for a Conditional Use Permit to allow on-premise consumption of beer and wine at 321 N LBJ DR.
7. **PC-10-07(01).** Consider possible action on a request by Byrn & Associates, Inc., on behalf of 90 San Marcos, Ltd., for approval of the concept plat of 90 San Marcos Property, being 88.2 acres, more or less, in the J.M. Veramendi Survey No. 2, Abstract No. 17, located in the 1800 & 1900 Block of North IH-35.
8. **QWPP2-10-0002.** Consider possible action on a request by Byrn & Associates, Inc., on behalf of Joe K. Dobie, Jr. for a Qualified Watershed Protection Plan Phase II for Lot 1, Joe Dobie Addition, located on the southwest corner of Aquarena Springs Drive and River Road.
9. **PC-10-08(03).** Consider possible action on a request by Byrn & Associates, Inc., on behalf of Joe K. Dobie, Jr., for approval of the final plat of Lot 1, Joe Dobie Addition, located on the southwest corner of Aquarena Springs Drive and River Road.

10. **LUA-10-01.** Hold a public hearing and consider possible action on a request by Breckenridge Properties for a Future Land Use Map Amendment from High Density Residential (HDR) to Medium Density Residential (MDR) on a 1.35 acre parcel out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located at 400 Briar Meadow Road.
11. **ZC-10-04.** Hold a public hearing and consider possible action on a request by Breckenridge Properties for a Zoning Change from unzoned to Multi-Family (MF-12) on a 1.35 acre parcel out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located at 400 Briar Meadow Road.
12. **LUA-10-02.** Hold a public hearing and consider possible action on a request by Breckenridge Properties for a Future Land Use Map Amendment from High Density Residential (HDR) to Medium Density Residential (MDR) on a 4.53 acre parcel out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located at 201 Briar Meadow Road.
13. **ZC-10-05.** Hold a public hearing and consider possible action on a request by Breckenridge Properties for a Zoning Change from unzoned to Multi-Family (MF-12) on a 4.53 acre parcel out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located at 201 Briar Meadow Road.
14. **LUA-10-03.** Hold a public hearing and consider possible action on a request by Breckenridge Properties for a Future Land Use Map Amendment from Industrial (I) to Medium Density Residential (MDR) on a 5.85 acre parcel out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located on the southeast corner of Briar Meadow Road and the Missouri Pacific R. R.
15. **ZC-10-06.** Hold a public hearing and consider possible action on a request by Breckenridge Properties for a Zoning Change from Light Industrial (LI) to Multi-Family (MF-12) on a 5.85 acre parcel out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located on the southeast corner of Briar Meadow Road and the Missouri Pacific R. R.
16. **LUA-10-04.** Hold a public hearing and consider possible action on a request by Breckenridge Properties for a Future Land Use Map Amendment from Commercial (C) to Medium Density Residential (MDR) on a 9.90 acre parcel out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located approximately 600 feet west of IH-35 and 200 feet north of Mill Street extension.
17. **ZC-10-07.** Hold a public hearing and consider possible action on a request by Breckenridge Properties for a Zoning Change from General Commercial (GC) to Multi-Family (MF-12) on a 9.90 acre parcel out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located approximately 600 feet west of IH-35 and 200 feet north of Mill Street extension.
18. **LUA-10-05.** Hold a public hearing and consider possible action on a request by Hammond Jones Development on behalf of Everette and Donna Swinney for a Land use Map Amendment for 2.0199 acres of land described as Park Addition lots 36,37,38,54,57,58 from Low Density residential to High Density Residential located at 218 Sessom Dr.
19. **ZC-10-08.** Hold a public hearing and consider possible action on a request by Hammond Jones Development on behalf of Everette and Donna Swinney for a Zoning Change for 2.0199 acres of land described as Park Addition lots 36,37,38,54,57,58 from Single Family Residential – 6 (SF-6) to Multi-Family Residential – 24 (MF-24) located at 218 Sessom Dr.
20. **LUA-10-06.** Hold a public hearing and consider possible action on a request by Hammond Jones Development on behalf of the Estate of Helen Van Gundy for a Land use Map Amendment for 3.078 acres of land described as Park Addition lots 55, 56, 52, 53, 41, 50-51 & pt of 42,43,44 from Low Density Residential to High Density Residential

21. **ZC-10-09.** Hold a public hearing and consider possible action on a request by Hammond Jones Development on behalf of the Estate of Helen Van Gundy for a Zoning Change for 3.078 acres of land described as Park Addition lots 55, 56, 52, 53, 41, 50-51 & pt of 42,43,44 from Single Family Residential – 6 (SF-6) to Multi-Family Residential – 24 (MF-24).
22. **LUA-10-07.** Hold a public hearing and consider possible action on a request by Hammond Jones Development on behalf of Christian Espiritu for a Land Use Map Amendment for 1.19 acres of land described as Park Addition lots 39, 40 from Low Density Residential to High Density Residential located at 300 Loquat St
23. **ZC-10-10.** Hold a public hearing and consider possible action on a request by Hammond Jones Development on behalf of Christian Espiritu for a Zoning Change for 1.19 acres of land described as Park Addition lots 39, 40 from Single Family Residential – 6 (SF-6) to Multi-Family Residential – 24 (MF-24) located at 300 Loquat St.
24. **Classifying an Unlisted Use- Gaming Facilities.** Hold a public hearing and consider possible action on an appeal by Molly Harris of the Planning Directors interpretation that the proposed gaming facilities are not similar enough to any use currently defined in the Land Use Matrix Section 4.3.1.2
25. **Discussion Items.**

Commission members and staff may discuss and report on items related to the Commission's general duties and responsibilities. The Commission may not take any vote or other action on any item other than to obtain a consensus regarding items that will be placed on future agendas for formal action.

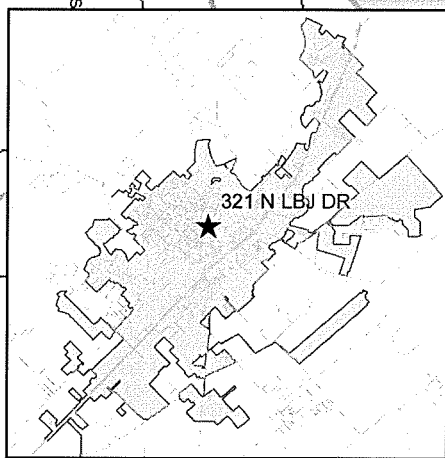
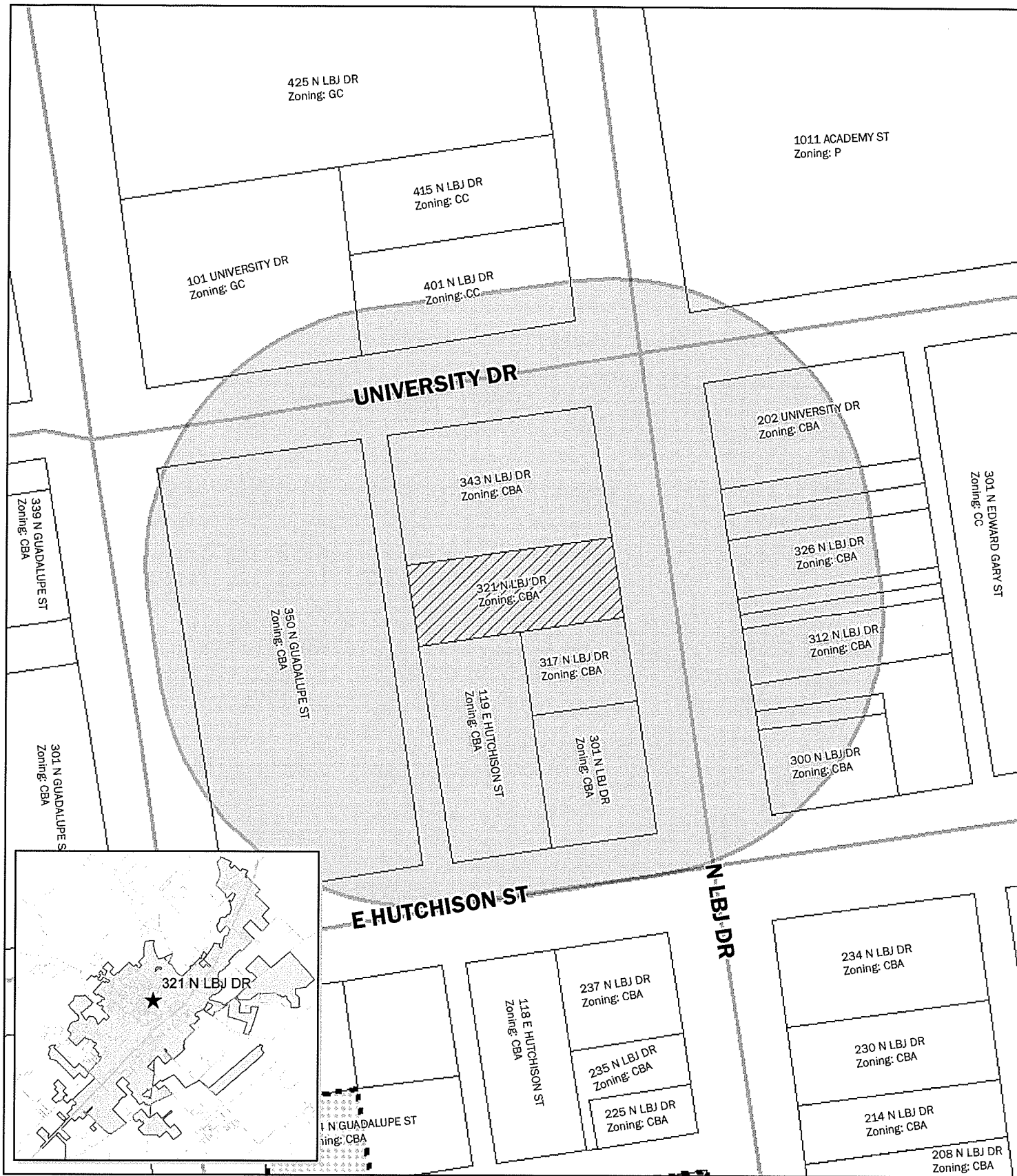
#### **Planning Report**

#### **Commissioners' Report.**


26. Consider approval of the minutes from the Regular Meeting on June 22, 2010.
27. Questions from the Press and Public.
28. Adjourn.

#### *Notice of Assistance at the Public Meetings:*

*The San Marcos City Hall is wheelchair accessible. The entry ramp is located in the front of the building. Accessible parking spaces are also available in that area. Sign interpretative for meetings must be made 48 hours in advance of the meeting. Call the City Clerk's Office at 512-393-8090.*



**CUP-10-15**  
**321 N LBJ**  
**Map Date: 06/23/10**

 Notification Buffer  
 (200 feet)

 Site Location

 Historic District

This map was created by Development Services  
 for reference purposes only. No warranty is made  
 concerning the map's accuracy or completeness.

0 50 100 200  
 Feet



**Conditional Use Permit  
CUP-10-15  
Showplace Cinema Grill  
321 N LBJ**



**Applicant Information:**

Applicant: Cinema Grill Inc  
1250 Wonderworld Dr  
San Marcos TX 78666

Property Owner: Same

Applicant Request: A new Restricted Conditional Use Permit (CUP) to allow on-premise consumption of beer and wine

Notification: Public hearing notification mailed on July 2, 2010. A list of property owners notified is attached.

Response: None as of July 8, 2010

**Subject Property:**

Location: 321 N LBJ

Legal Description: Original Town of San Marcos Block 24, Lot Pt of 3

Frontage On: LBJ

Neighborhood: Downtown

Existing Zoning: CBA

Master Plan Land Use: Commercial

Sector: Sector 8

Existing Utilities: Adequate

Existing Use of Property: Movie Theater

Proposed Use of Property: Movie Theater

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	CBA	Commercial
S of Property	CBA	Commercial
E of Property	CBA	Commercial
W of Property	CBA	Commercial

**Code Requirements:**

A conditional use permit allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

A business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located in a low density residential zoning district. This location **does** meet the distance requirements.

New provisions were added to Restricted (Restaurant) permits in 2005. In addition to the code standards and penalty point system that apply to all conditional use permits for on-premise consumption, downtown restaurants with a Restricted CUP must operate as "bona fide restaurants" and are subject to reporting requirements. This information has been provided to the applicant. There is a limit of 15 Restricted CUPs at any time. The city currently has five active permits within the CBA. This would be the sixth Restricted CUP.

### **Case Summary**

A Restricted CUP was approved for this location in 2008 but expired. The applicant stated that alcohol was never served on premise. Hours proposed are from 5pm to 12am Mon-Fri, Sat 2pm-1am, and Sunday 2pm-12am. No amplified live music is proposed. The application states that the business will remain a movie theater and will serve full meals. No site work is proposed with this application.

### **Comments from Other Departments:**

Building, Engineering, Code Enforcement, and Police have not reported major concerns regarding the subject property. The Health Department has stated that the facility will require some major upgrades to meet the State Food Establishment Rules for the type of set up they are proposing. The Assistant Fire Marshal stated a similar comment.

### **Planning Department Analysis:**

The proposal is consistent with several stated goals of the Downtown Master Plan, including making downtown a destination and creating "third places." In order to provide more room for patrons to eat and drink in the theater, a floor plan submitted by the applicant shows that about half of the existing seating will be removed, and this reduced capacity should help to minimize adverse effects to surrounding properties.

Because this application is for a Restricted CUP, the applicant must meet the requirements for Restricted CUPs in 4.3.4.2 (b) (6). Food service will be required in order to meet the definition of a "bona fide restaurant." The applicant will need to make whatever improvements necessary in order to obtain a food establishment permit and operate as a "bona fide restaurant."

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard recommendation is that they be approved initially for a limited time period. Other new conditional use permits have been approved as follows:

- Initial approval for 1 year;
- Renewal for 3 years;
- Final approval for the life of the State TABC license, provided standards are met.

**Staff provides this request to the Commission for your consideration and recommends approval of the Conditional Use Permit with the following conditions:**

1. The CUP be valid for one (1) year, provided standards are met, subject to the point system
2. The applicant shall submit all required plans and receive all necessary permits from the Health Department.

Planning Department Recommendation:	
	Approve as submitted
<b>X</b>	Approve with conditions or revisions as noted
	Alternative
	Denial

**The Commission's Responsibility:**

The Commission is required to hold a public hearing and receive comments regarding the proposed Conditional Use Permit. After considering public input, the Commission is charged with making a decision on the Permit. Commission approval is discretionary. The applicant, or any other aggrieved person, may submit a written appeal of the decision to the Planning Department within 10 working days of notification of the Commission's action, and the appeal shall be heard by the City Council.

The Commission's decision is discretionary. In evaluating the impact of the proposed conditional use on surrounding properties, the Commission should consider the extent to which the use:

- is consistent with the policies of the Master Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

Conditions may be attached to the CUP that the Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the intent of the Code.

**Prepared by:**

John Foreman

Planner

July 8, 2010

---

**Name**

**Title**

**Date**

# Showplace Grill

## The Classics

### Popcorn

- Tub ..... \$ 6.00  
(Free Refills)
- Large ..... \$ 5.00
- Medium ..... \$ 4.25
- Small ..... \$ 3.25

Hot Dog ..... \$ 3.50

### Candy

- Small ..... \$ 2.50  
Whoppers, Cookie Dough Bites, Hot Tamales, Sour Patch Kids
- Medium ..... \$ 3.00  
Gummi Bears, Milk Duds, Junior Mints, Buncha Crunch, Raisinets
- Large ..... \$ 3.25  
Twizzlers, M&M Plain, M&M Peanut, Butterfinger, Chocolate Almonds

Pickles ..... \$ 2.00

### Ice Cream

- Dibs ..... \$ 3.75

## Pizza

10" personal size

- Pepperoni ..... \$ 8.00
- Double Cheese ..... \$ 8.00
- Italian Sausage ..... \$ 8.00
- Mushrooms, Bell Peppers  
And Black Olives ..... \$ 8.00
- Pepperoni, Sausage;  
And Hamburger ..... \$ 9.00

Chicken Tenders Basket ..... \$7.00

8 Crispy Tenders served with French fries.

\* Like em Spicy? Ask for Cajun style!



Piled High Nachos ..... \$ 8.00  
 Your choice of beef or chicken added to a Nacho Masterpiece of  
 Chips, beans, cheese and sour cream.  
 Vegetarian Style ..... \$ 5.00

Extreme Dog ..... \$ 5.00  
 100% beef hot dog smothered in chili and cheese.

### Just Chips and Dips

Chips and Salsa ..... \$ 3.00  
 Add Queso - \$ 2.00  
 Add Beef and Queso – \$ 3.00  
 Add Guacamole or Bean Dip - \$ 2.00

Buffalo Wings ..... \$ 6.50  
 Traditional Buffalo Wings served with Fries and Ranch Dressing.

## Drink Menu

### Sodas

Large ..... \$ 4.00  
 Medium ..... \$ 3.75  
 Small ..... \$ 3.25

### Draft Beer

16 oz Pint ..... \$ 3.50  
 Pitcher ..... \$ 8.00  
 (Two I.D.'s per Pitcher)  
 "Big Cat" ..... \$ 15.00  
 Try our 38 oz. Big Cat and keep  
 the mug for refills!  
 Refills ..... \$ 6.00

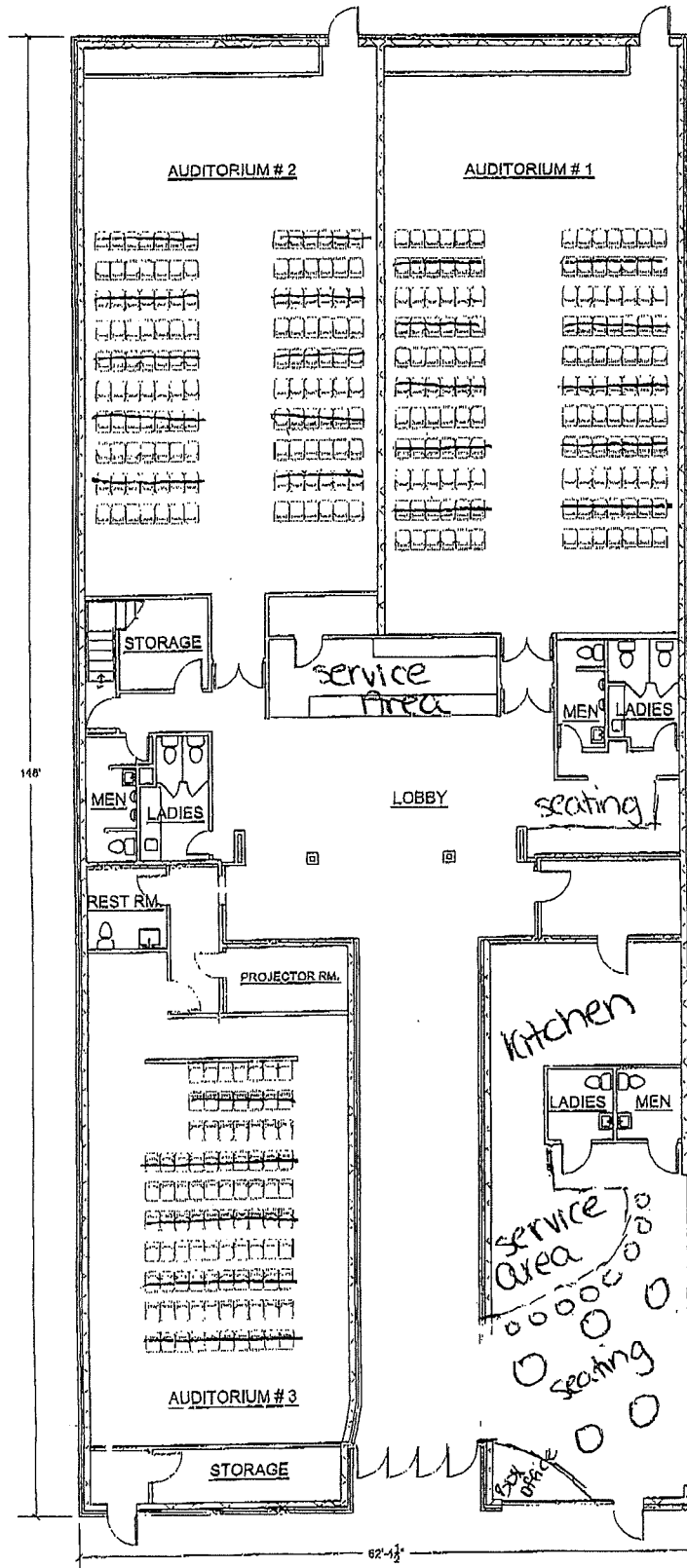
### Bottled Beer

Try a bucket! Its 5 for the price of 4!  
 Bottle ..... \$ 3.50  
 Bucket(5) ..... \$ 14.00

### Wine

### Glass/Bottle

Beringer White Zinfandel .....\$ 4.50 / \$15.00  
 Woodbridge Chardonnay ..... \$ 5.50 / \$20.00  
 Meridian Merlot ..... \$ 5.75 / \$23.00



→ Plan to  
remove every  
other row of  
seating and  
add tables.

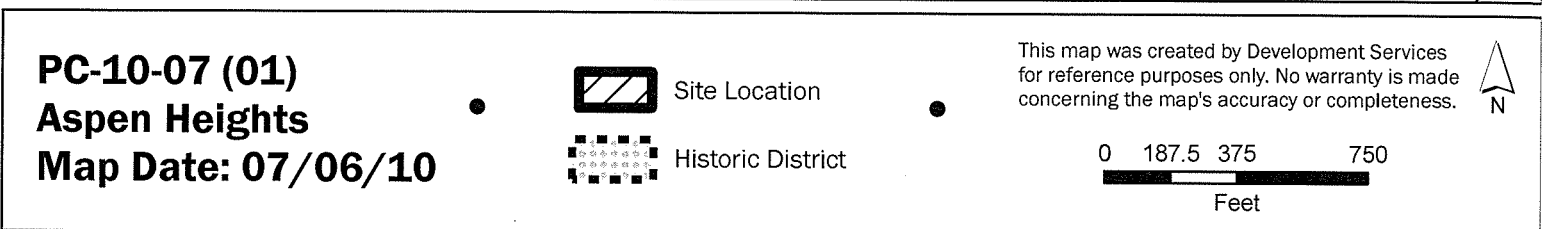
EXISTING FLOOR PLAN  
3/32" = 1'-0"

Showplace Cinema Grill

SHOWPLACE  
321 N. LBJ DRIVE  
SAN MARCOS, TEXAS

Persimmon Co., Inc.  
120 N. GUADALUPE ST., SUITE 104  
San Marcos, TEXAS 76066  
PH: 512-553-2010

A-1



# PC-10-07 (01) Concept Plan 90 San Marcos Subdivision



## Applicant Information:

**Applicant:** Breckenridge Properties  
7004 Bee Caves, Bldg 3, Suite 330  
Austin, TX 78746

**Property Owner:** 90 San Marcos Ltd & DRFM Investments  
Tony Kalantari  
114 Rutland Drive  
Austin, TX 78758

Sands Family  
Steve, Marvin, Linda & Sybilla Sands  
400 Briar Meadow Road  
San Marcos, TX 78666

**Applicant's Agent:** David C. Williamson, R.P.L.S  
Byrn & Associates, Inc.  
1115 Hwy 80  
San Marcos, TX 78666

**Notification:** Notification not required

**Type & Name of Subdivision:** Concept Plan, 90 San Marcos Subdivision

## Subject Property:

**Summary:** The subject property is located in the northwest quadrant of San Marcos; between the Missouri Pacific Railroad and 1800 & 1900 Block of N IH-35. This concept plan is the proposed development of 88.2 +/- acres out of the J.M. Veramendi Survey No. 2, Abstract No. 17, Hays County. This project is proposed to be developed in four phases;

**Phase 1** – Under construction, this is a 40.8 +/- acre tract that will be the site of a 416 dwelling unit apartment complex site, with an estimate population density of 1,248;

**Phase 2** – Scheduled for Fall of 2010, this is a 21.63 +/- acre tract that will be the site of a 260 dwelling unit apartment complex site, with an estimated population density of 780.

**Phase 3** – Scheduled for 2010 – 2013, this is a 2.4 +/- acre tract that a proposed commercial site.

**Phase 4** - Scheduling has not yet been determined, however this 20 +/- acre tract has been proposed to be the site of High Density Residential & Commercial development.

**Traffic / Transportation:** The owner will grant R-O-W and construct adequate roadway infrastructure to service this project and conform to the City of San Marcos Land Development Code and Thoroughfare Plan.

**Utility Capacity:** The City of San Marcos will provide water and wastewater service to the site, through transmission and distribution facilities developed by the owner. The owner will grant additional public utility easements for utility extension.

**Zoning:** Subject property is currently zoned MF-12, GC, and LI. A portion of phase four of this project is currently not within the City Limits and is consequently not zoned.

**Surrounding Zoning and Land use:**

	Current Zoning	Existing Land Use
N of Property	Unzoned & HC	Single-Family Commercial
W of Property	MF-12 & CC	Railroad Tracks
S of Property	HI, MH & MF-12	Mobile Home Park Single-Family Undeveloped
E of Property	MF-18, GC & CC	Multi-Family Commercial Undeveloped

#### **Planning Department Analysis:**

A concept plan for a portion of this property was originally submitted for review April 10, 2009 and approved by the Planning & Zoning Commission April 29, 2009. The approved concept plan was smaller in overall size and the acre allegations of the phasing have changed, consequently a new concept plan has been submitted.

This concept plan is subject to all requirements of the Land Development Code and has been reviewed for consistency with existing City Ordinances and policies.

The City of San Marcos Environment & Engineering Department has:

- Approved the Traffic Impact Analysis for phase one with the following recommendation:
  1. Add a dedicated left-turn bay of sufficient length to accommodate left-turn movements at the intersection of Mill Street and Copper Beech Street.
- Approved the Watershed Protection Plan Phase 1
- Approved the Public Improvement Construction Plans (PICP) for phase one; PICPs for future phases will require approval before platting.

Staff is recommending **approval** of this concept plan subject the following conditions:

- Add a dedicated left-turn bay of sufficient length to accommodate left-turn movements at the intersection of Mill Street and Copper Beech Street.
- All portions of this concept plan be annexation within the City of San Marcos.

<b>Planning Department Recommendation</b>	
	Approve as submitted
<b>X</b>	Approve with conditions or revisions as noted
	Alternative
	Denial

**The Commission's Responsibility:**

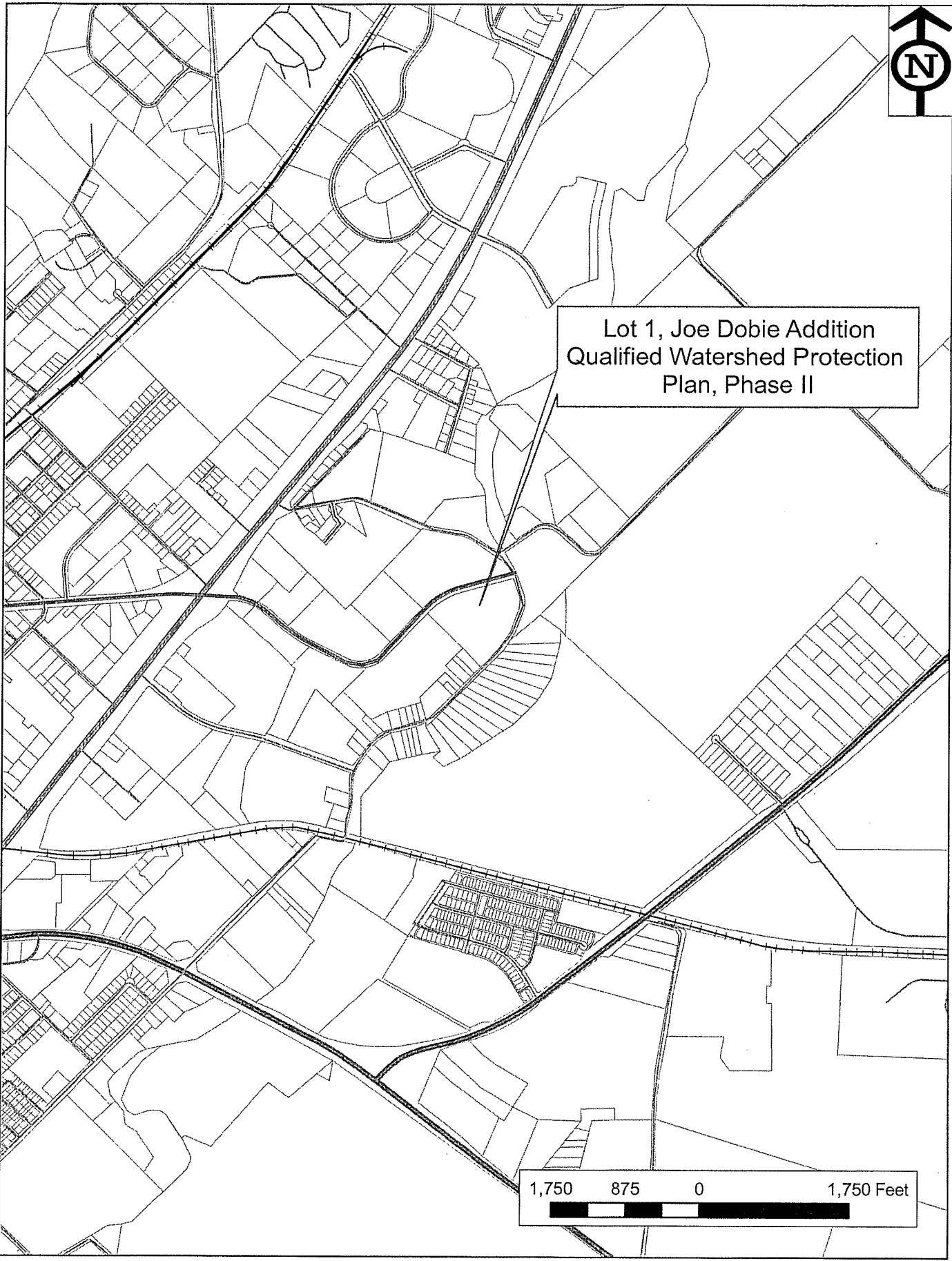
The City Charter delegates all subdivision platting authority to the Planning and Zoning Commission. The Commission's decision on platting matters is final and may not be appealed to the City Council. Your options are to approve, disapprove, or to statutorily deny (an action that keeps the applicant "in process") the plat.

**List of Attachments:**

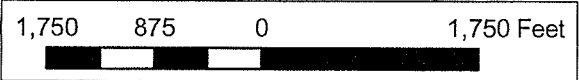
Maps  
Proposed

**Prepared by:**

<b>Phil Steed</b>	<b>Planner</b>	<b>July 5, 2010</b>
<b>Name</b>	<b>Title</b>	<b>Date</b>



Lot 1, Joe Dobie Addition  
Qualified Watershed Protection  
Plan, Phase II



# Report for Qualified Watershed Protection Plan



## Applicant Information:

**Engineer:** Byrn & Associates, Inc.

**Property Owner:** Joe & Daisy Dobie Family Trust

**Applicant's Request:** Reclamation of land within the existing 100-year floodplain for construction of apartment complex

**Public Hearing Date:** July 13, 2010

**Location:** South of Intersection of Aquarena Springs and River Road

**Legal Description:** 15.06, more or less, in the J.M. Veramendi League Survey No. 2, City of San Marcos, Hays County, Texas

**Frontage On:** Aquarena Springs and River Road

**Existing Zoning:** MF-24

**Future Land Use Map:** High Density Commercial

**Sector:** 6

**Existing Use of Property:** Vacant – Formerly used as borrow pit and construction material fill site

**Proposed Use of Property:** Approx. 250 Multifamily Units in 4 Residential Buildings (3- and 4-story structures) and an Office/Clubhouse Building

## **Zoning and Land Use Pattern:**

	Current Zoning	Existing Land Use
<b>N of Property</b>	MF-24	The Zone Apartments
<b>S of Property</b>	SF-6	Low Density Residential
<b>E of Property</b>	FD	Open Space
<b>W of Property</b>	MF-24	River Oaks Apartments

## Engineering Analysis :

This Qualified Watershed Protection Plan Phase 2 was previously approved by the Planning and Zoning Commission on April 8, 2008. The approval expired on April 8, 2010. No changes to the plan have been proposed. There have been no changes to the Land Development Code that would impact this plan since its previous submittal and approval.

The applicant is requesting approval of a qualified watershed protection plan based upon reclamation of land within the 100-year floodplain of the Blanco River. Most of the site lies within the floodplain and a



portion of the site is within the floodway. According to the Plan provided by the Engineering Consultant, there are no endangered species or habitat, archaeological sites, historical structures, wetlands, or waters of the United States on the site.

The applicant is proposing to place fill on the site in order to elevate the area for construction of the buildings to the appropriate level (minimum 1-foot above the base flood elevation). Appropriately sized Water Quality and Buffer Zones are being established along the floodway.

Overall impervious cover on the site is limited to 75% allowable. Proposed impervious cover over the total site is 52% of the 14.48 acres. No impervious cover is proposed within the Water Quality Zone. Approximately 29% impervious cover is proposed within the Buffer Zone. The allowable maximum impervious cover within a Buffer Zone, per the Land Development Code, is 30%. A semi-pervious material called Gravelpave2 is proposed to be used for parking surfaces within the Buffer Zone in order to achieve cover within permissible parameters. Staff has reviewed the surface characteristics and installation requirements and found it to be an acceptable alternative surface. All emergency access lanes will be constructed of asphaltic concrete.

A detention and water quality basin is proposed to control runoff in accordance with the Land Development Code. Overall runoff from the developed site will be comparable to current runoff conditions.

Included as a requirement for the Phase 2 Watershed Protection Plan, the applicant has submitted an enhanced Landscape Plan for the portion of the site within the floodway and the Water Quality and Buffer Zones. The plan includes native grasses and plants that will return the disturbed portions of those areas to a stable state consistent with a natural, undisturbed condition.

Based upon the Engineering Department review of this Qualified Watershed Protection Plan, Phase 2, it meets the applicable technical requirements of Chapter 5 of the Land Development Code.

Engineering Recommendation	
<b>X</b>	Approve as submitted
	Approve with conditions or revisions as noted
	Alternative
	Denial

**The Commission's Responsibility:**

The Commission is required by law to hold a public hearing and receive public comment regarding the proposed Qualified Watershed Protection Plan, Phase 2. After considering any public input, the Commission, following the recommendation of the City Engineer, is charged with approving, conditionally approving, or denying the request.

The criteria for evaluating a request for a Qualified Watershed Protection Plan Phase 2 is:

- (1) Reclaimed land - factors. For developments where reclamation of land within the 100-year floodplain is proposed:
  - a. Whether the Reclamation Concept Plan (which is an element of both phases of the Watershed Protection Plan when reclamation is proposed) is consistent with approved legislative applications for the land subject to the plan, including expressly any master drainage plan elements applicable to the land;
  - b. Whether the Reclamation Concept Plan (which is an element of both phases of the Watershed Protection Plan when reclamation is proposed) meets the general standards in Chapter 5, Article 1, and the specific criteria in Chapter 5, Article 4, Division 2; and

- c. Whether any adverse impacts have been appropriately mitigated.

The Commission's action on the Qualified Watershed Protection Plan, Phase 2 may be appealed to the City Council.

List of Attachments:

- Watershed Protection Plan 2 (6 Sheets)
  - Landscape Plans (4 Sheets)
- note: plans are bound together

Prepared by:

*Kathryn Woodlee*

**Kathryn Woodlee, P.E.**

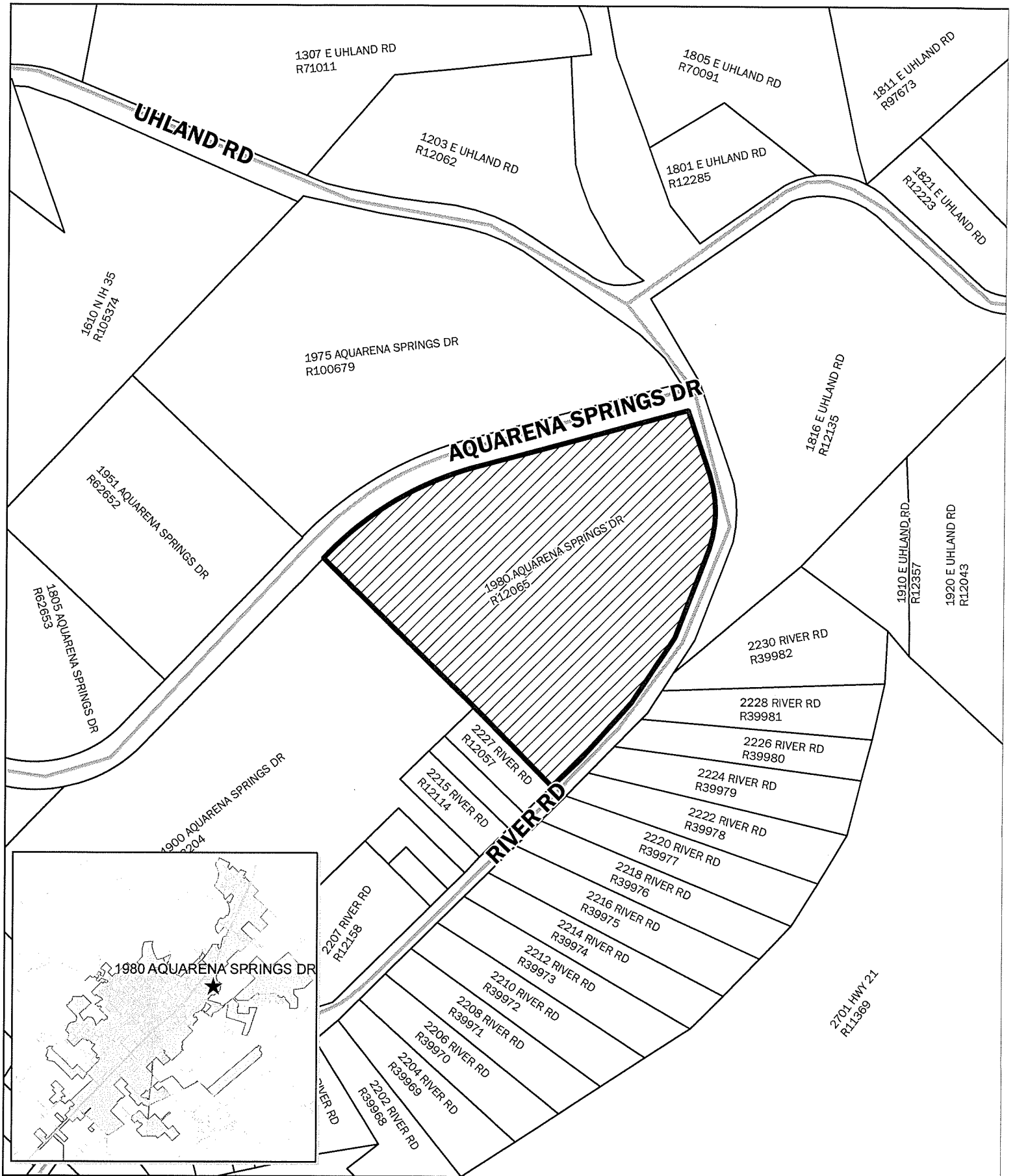
---

**Name**

**Senior Engineer, Permit Center Manager, Development Services Department**

---

**Title**



**PC-10-08 (03)**  
**Joe Dobie Addition**  
**Map Date: 07/06/10**



Site Location



Historic District

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.



0 120 240 480  
 Feet

# PC-10-08(03) Final Plat of Lot 1, Joe Dobie Addition



## **Applicant Information:**

Applicant: Byrn & Associates, Inc.  
P.O. Box 1433  
San Marcos, TX 78666

Property Owner: Joe K. Dobie Jr., trustee  
for the Joe K. & Daisy G. Dobie Family  
3070 County Road 117  
San Saba, TX 76677

Applicant's Agent: Kyle Smith, Byrn & Associates, Inc.

Notification: Notification not required

Type & Name of Subdivision: Final, Joe Dobie Addition

## **Subject Property:**

Summary: The subject property is located in the northeast quadrant of San Marcos; situated on the southwest corner of the intersection of Aquarena Springs Drive and River Road. The applicant is proposing to establish Lot 1, Joe Dobie Addition, being a 14.48 acre site.

Traffic / Transportation: Approx 1,105 linear feet of frontage on Aquarena Springs Drive, and approx 1,185 linear feet of frontage on River Road.

Land Use Compatibility: Surrounding land use is multi-family on three sides, and vacant and undeveloped land to the east. This property is located very near the Blanco River; the entire tract is within the 100 year flood plane and a portion lies within the floodway.

Utility Capacity: There is an existing 10 " water main located on the north side of Aquarena Springs Drive, across from the northwest corner of the subject property, consequently water will need to be extended to the subject property and (per Land Development Code) extended along Aquarena Springs Drive. There is an existing 24" wastewater line located along the southwest property line of the subject property that will provide adequate sanitary sewer service.

Zoning: Subject property is zoned Multi-Family Residential (MF-24).

Surrounding Zoning  
And Land use:

	Current Zoning	Existing Land Use
N of Property	FD	Undeveloped
S of Property	MF-24	Multi-Family
E of Property	MF-24	Multi-Family
W of Property	SF-6	Single Family

### **Planning Department Analysis:**

The subject property was originally submitted as a final plat on January 23, 2008 and approved as PC-08-03(03) by the Planning & Zoning Commission on April 8, 2008. However, the approved Plat was not submitted by the owner for recordation. Per Section 1.6.5.7 of the Land Development Code, a Plat will expire and be deemed null and void, if the Plat is not recorded within a two year period. Consequently the approved final plat of this property expired on April 8, 2010. The applicant has resubmitted a final plat application on the subject property.

This final plat is subject to all requirements of the Land Development Code and has been reviewed for consistency with existing City Ordinances and policies.

The City Environment & Engineering Department has:

- Approved the Traffic Impact Analysis
- Approved the Public Infrastructure Construction Plans.

The Qualified Watershed Protection Plan Phase II is being heard as a separate item at this Planning & Zoning Meeting.

Staff is recommending **approval** of this final plat, conditionally with the approval of the Qualified Watershed Protection Plan Phase II.

Planning Department Recommendation	
	Approve as submitted
X	Approve with conditions or revisions as noted
	Alternative
	Denial

### **The Commission's Responsibility:**

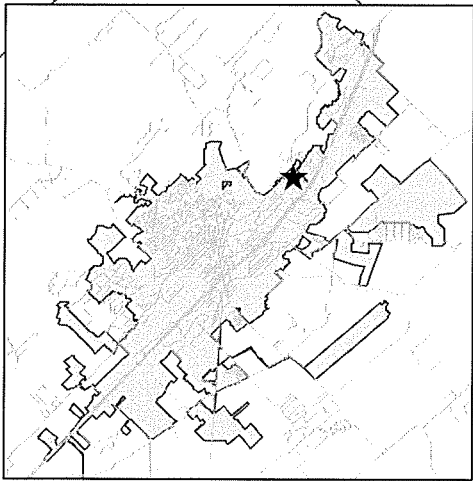
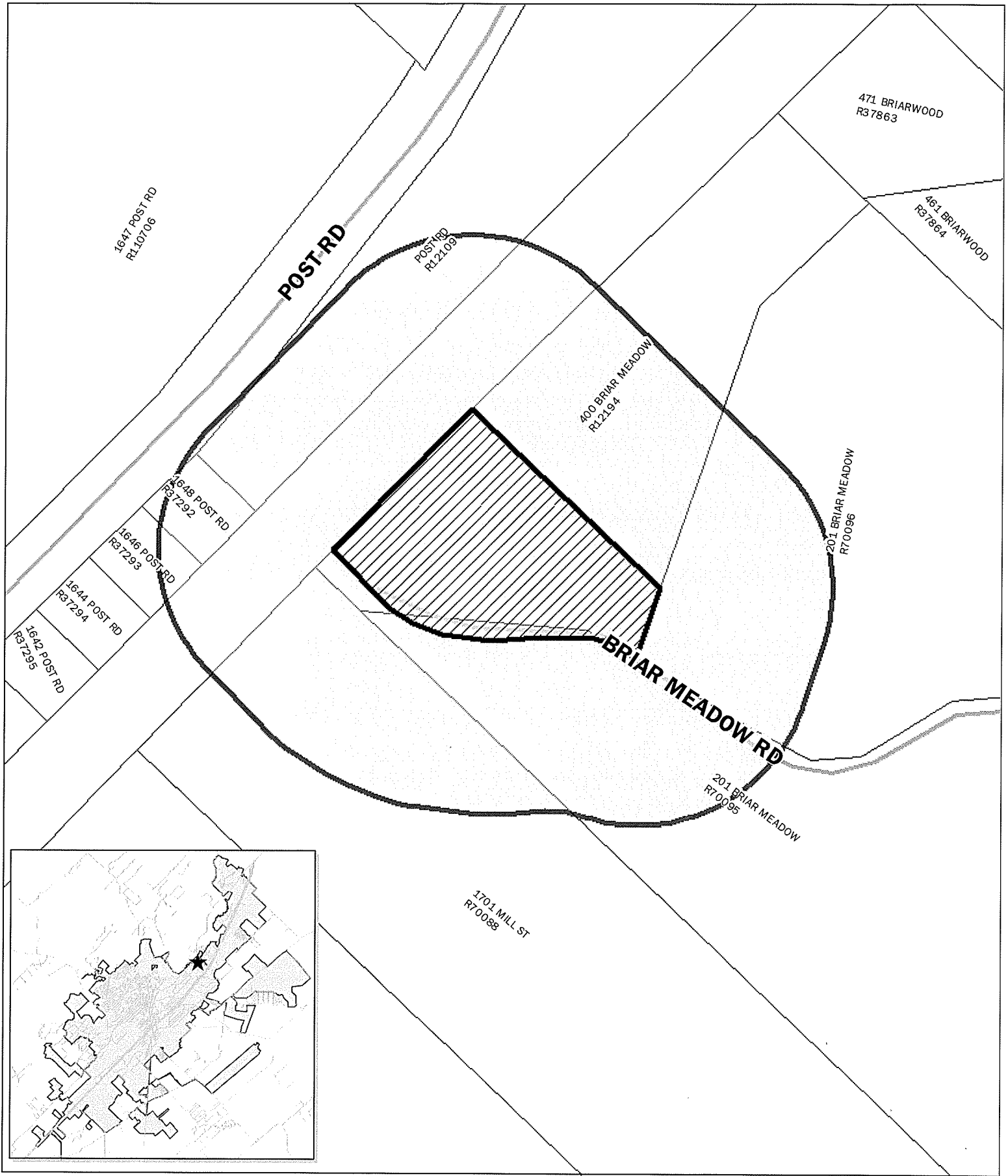
The City Charter delegates all subdivision platting authority to the Planning and Zoning Commission. The Commission's decision on platting matters is final and may not be appealed to the City Council. Your options are to approve, disapprove, or to statutorily deny (an action that keeps the applicant "in process") the plat.

### **List of Attachments:**

Location Map  
Proposed Plat

### **Prepared by:**

Phil Steed, Planner



**LUA-10-01**

**ZC-10-04**

**Map Date: 06/22/10**



Notification Buffer  
(200 feet)

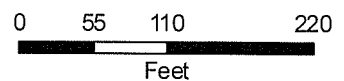


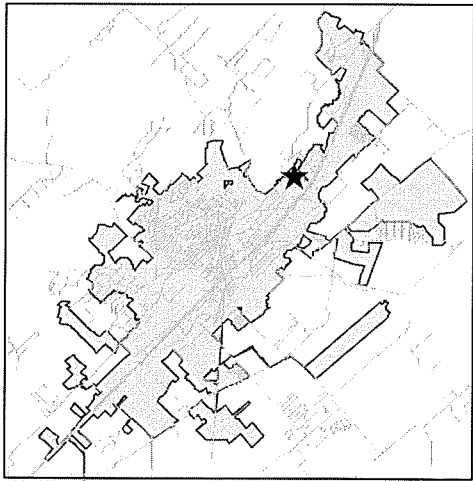
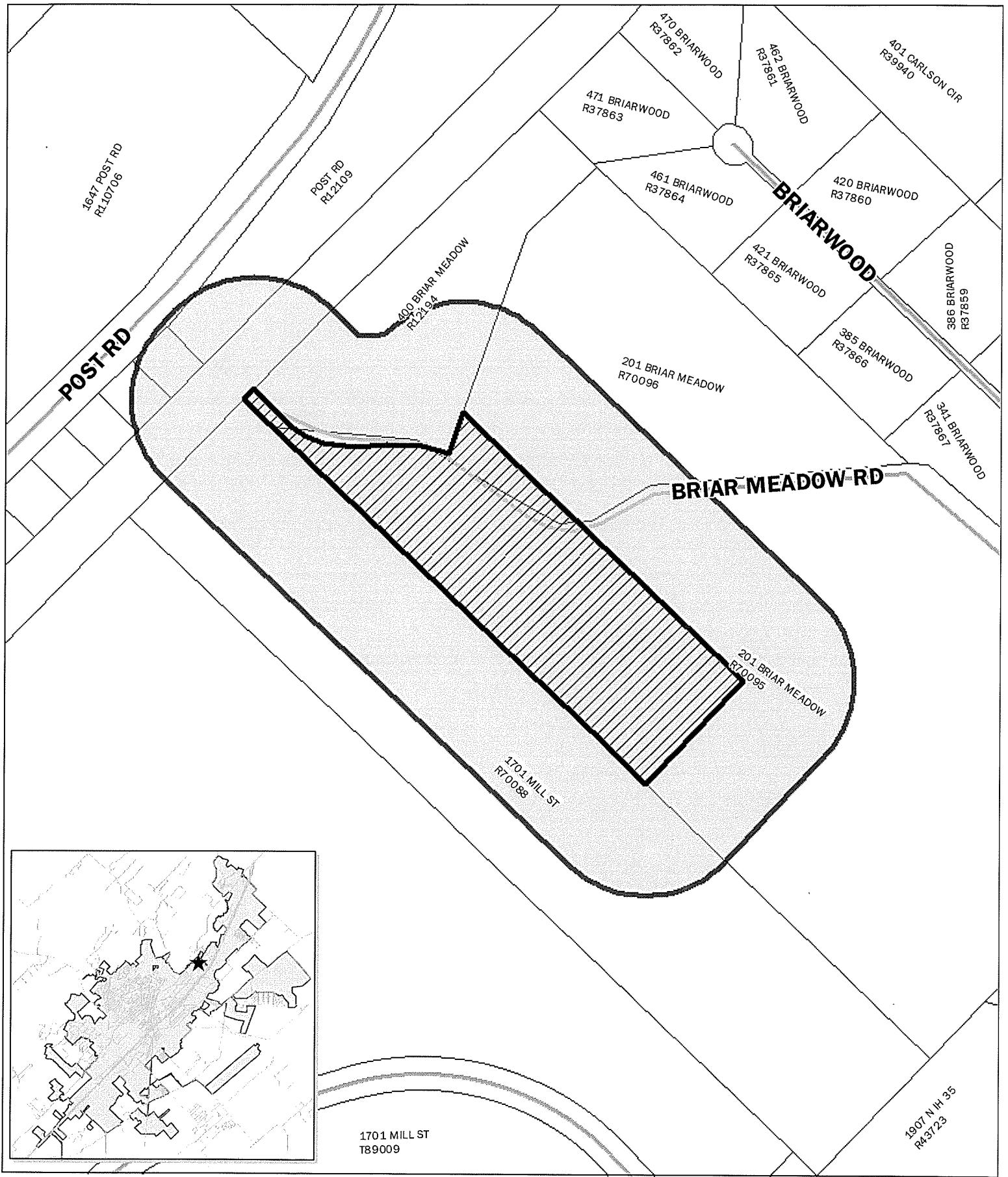
Site Location



Historic District

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.





1701 MILL ST  
T89009

**LUA-10-02**  
**ZC-10-05**  
**Map Date: 06/22/10**

 Notification Buffer  
(200 feet)

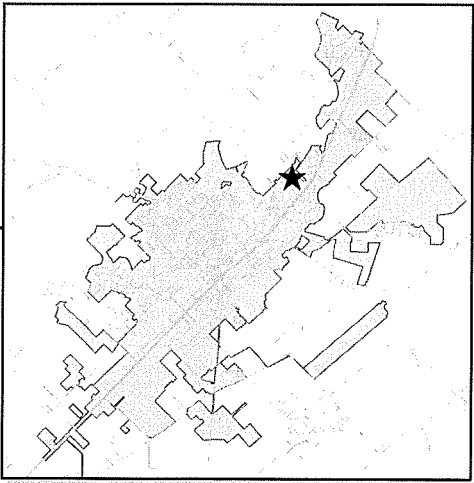
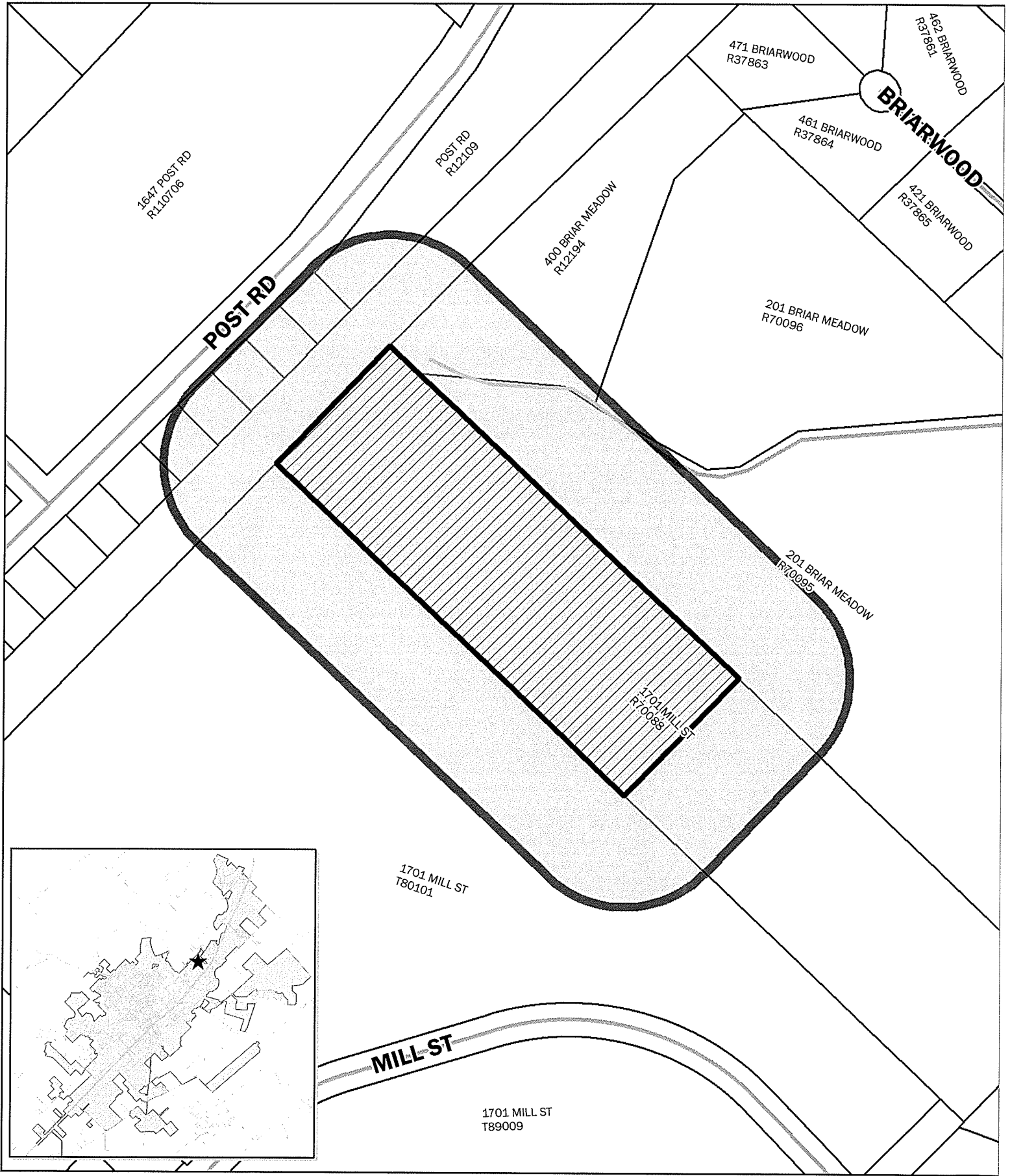
 Site Location

 Historic District

This map was created by Development Services  
for reference purposes only. No warranty is made  
concerning the map's accuracy or completeness.



0 87.5 175 350  
 Feet



**LUA-10-03**

**ZC-10-06**

**Map Date: 06/22/10**



Notification Buffer  
(200 feet)



Site Location



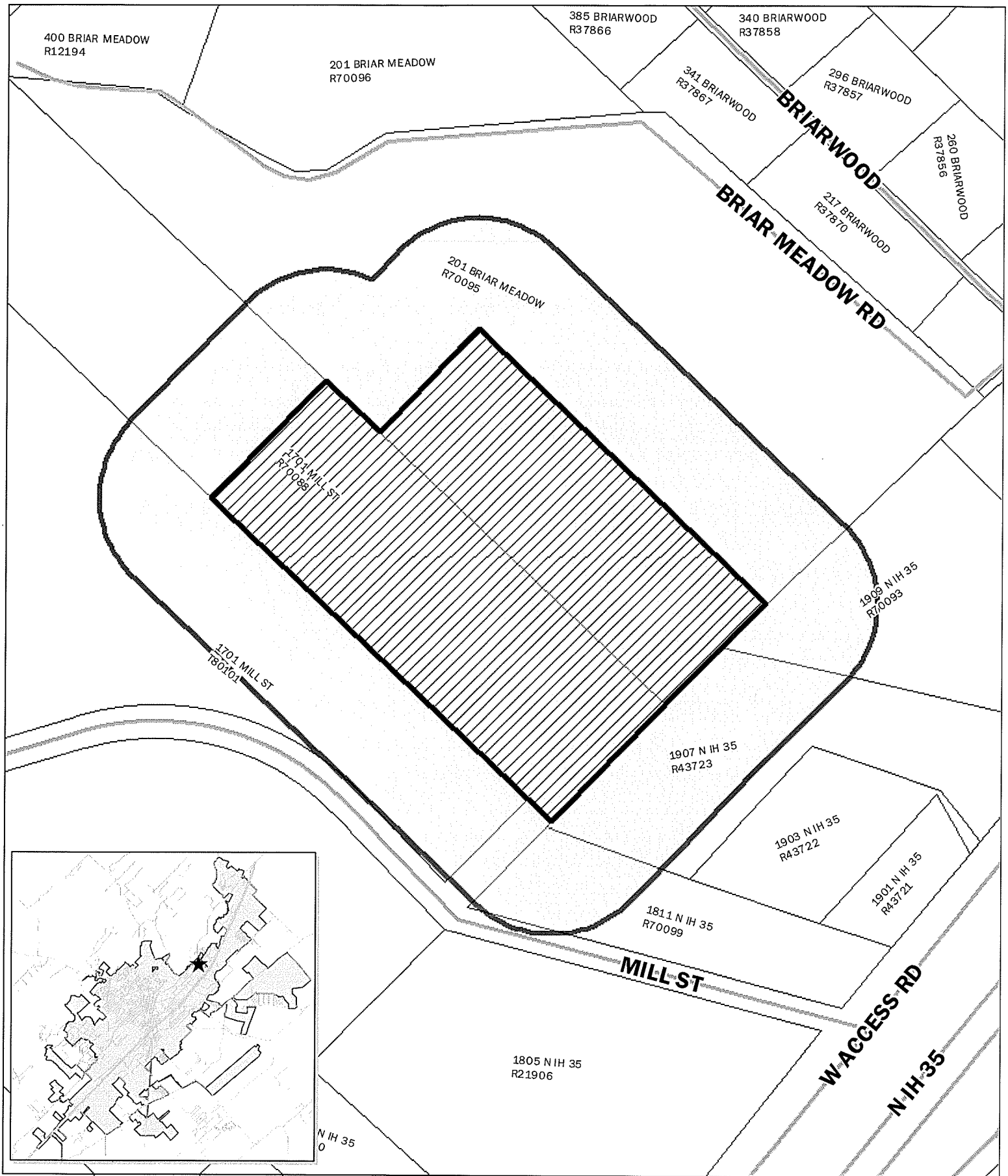
Historic District

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.



0 87.5 175 350  
Feet







**LUA-10-04**

**ZC-10-07**

**Map Date: 06/22/10**

 Notification Buffer  
(200 feet)

 Site Location

 Historic District

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.



0 87.5 175 350  
Feet

**Land Use Map Amendment  
LUA-10-01; LUA-10-02  
LUA-10-03; LUA-10-04  
Aspen Heights Tract**



**Summary:**

The applicant is requesting four Land use Map Amendments on a 21.63 acre parcel of land in the J.M. Veramendi Survey No.2, Abstract No. 17 – known as the Aspen Heights Tract.

**Applicant:**

Breckenridge Properties  
7004 Bee Caves, Bldg 3, Suite 330  
Austin, TX 78746

**Property Owner:**

Sands Family  
Steve, Marvin, Linda & Sybilla Sands  
400 Briar Meadow Road  
San Marcos, TX 78666

90 San Marcos Ltd & DRFM Investments  
Tony Kalantari  
114 Rutland Drive  
Austin, TX 78758

**Notification:**

Personal notifications of the Public hearing were mailed on July 2, 2010 to all property owners within 200 ft of subject property. A list of property owners notified is attached.

**Response:**

None as of date of report publication.

**Subject Properties:**

**LUA-10-01**

**Location:**

400 Briar Meadow Road, San Marcos, TX 78666

**Legal Description:**

Approximately 1.35 acres in the J.M. Veramendi Survey No. 2, Abstract No. 17, Hays County TX

**Sector:**

Seven

**Current Zoning:**

None, outside of City Limits.

**Proposed Zoning:** Multi-Family Residential (MF-12)

**Current Future Land Use Map Designation:** High Density Residential (HDR)

**Proposed Future Land Use Map Designation:** Medium Density Residential (MDR)

**Surrounding Area:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
N of Property	None	High Density Resid
S of Property	Light Industrial	Industrial
E of Property	None	High Density Resid
W of Property	Multi-Family (MF-24)	High Density Resid

## LUA-10-02

**Location:** 201 Briar Meadow Road, San Marcos, TX 78666

**Legal Description:** Approximately 4.53 acres in the J.M. Veramendi Survey No. 2, Abstract No. 17, Hays County, TX

**Sector:** Seven

**Current Zoning:** None, outside of City Limits.

**Proposed Zoning:** Multi-Family Residential (MF-12)

**Current Future Land Use Map Designation:** High Density Residential (HDR)

**Proposed Future Land Use Map Designation:** Medium Density Residential (MDR)

**Surrounding Area:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
N of Property	None	High Density Resid
S of Property	Light Industrial	Industrial
E of Property	General Commercial	Commercial
W of Property	None	High Density Resid

## LUA-10-03

**Location:** On the southeast corner of Briar Meadow Road and the Missouri Pacific RR

**Legal Description:** Approximately 5.85 acres in the J.M. Veramendi Survey No. 2, Abstract No. 17, Hays County, TX

**Sector:** Seven

**Current Zoning:** Light Industrial (LI)

**Proposed Zoning:** Multi-Family Residential (MF-12)

**Current Future Land Use Map Designation:** Industrial (I)

**Proposed Future Land Use Map Designation:** Medium Density Residential (MDR)

**Surrounding Area:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
N of Property	None	High Density Resid
S of Property	Multi-Family MF-12	Medium Density Resid
E of Property	General Commercial	Commercial
W of Property	Multi-Family MF-12	Medium Density Resid

## LUA-10-04

**Location:** Approximately 600 feet west of the 1900 Block of North IH-35 and 200 feet north of Mill Street extension.

**Legal Description:** Approximately 9.90 acres in the J.M. Veramendi Survey No. 2, Abstract No. 17, Hays County, TX

**Sector:** Seven

**Current Zoning:** General Commercial (GC)

**Proposed Zoning:** Multi-Family Residential (MF-12)

**Current Future Land Use Map Designation:** Commercial (C)

**Proposed Future Land Use Map Designation:** Medium Density Residential (MDR)

**Surrounding Area:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
N of Property	General Commercial	Commercial
S of Property	Multi-Family MF-12	Medium Density Resid
E of Property	General Commercial	Commercial
W of Property	Light Industrial	Industrial

## **Summary of Future Land Use Map Amendment Request**

The applicant is requesting the following Future Land Use Map Amendments:

- **LUA-10-01 and LUA-10-02** from High Density Residential (HDR) to Medium Density Residential (MDR)
- **LUA-03** from Industrial (I) to Medium Density Residential (MDR)
- **LUA-04** from Commercial (C) to Medium Density Residential (MDR)

## **Project Analysis:**

The proposed Aspen Heights Development which is a 21.63 acre student housing multi-family project located in the northwest quadrant of San Marcos, approximately 200 feet west of the 1900 Block of North IH-35. This development is adjacent to Copper Beech Apartments (a new student housing multi-family development that is under-construction).

The 21.63 acre site of the proposed Aspen Heights Development is composed of four parcels:

- A 1.35 acre tract that is currently outside the City Limits of San Marcos, but is in the process of voluntary annexation. This tract currently designated as High Density Residential (HDR) on the Future Land Use Map; and is unzoned.
- A 4.53 acre tract that is also, currently outside the City Limits of San Marcos, but in the process of voluntary annexation. This tract is too, currently designated as High Density Residential (HDR) on the Future Land Use Map; and is unzoned.
- A 5.85 acre tract that is within the City Limits of San Marcos, is designated as Industrial (I) on the Future Land Use Map, and is zoned Light Industrial (LI).
- A 9.90 acre tract that is within the City Limits of San Marcos, is designated as Commercial (C) on the Future Land Use Map, and is zoned General Commercial (GC).

The Aspen Heights site plan indicates there will be a total of 213 units in this development consisting of:

- 37 homes with four bedrooms;
- 34 duplex units, each unit with two bedrooms;
- 54 duplex units, each unit with three bedrooms.
- The total bedroom count will be 608.

## **Planning Department Analysis:**

Staff has evaluated the request for consistency with the Horizons Master Plan and the Sector 7 Plan. The Sector 7 Plan calls for the Future Land Use in this area to be Medium Density Residential (MDR).

Consistent	Neutral	Inconsistent	Horizons Master Plan Policy Statement
<input checked="" type="checkbox"/>			<b>Policy LU-1-1:</b> The City shall ensure that all land use decisions are in accordance with the vision statement, goals, and policies in the Future Land Use Plan and other elements of the Master Plan.
<input checked="" type="checkbox"/>			<p><b>Policy LU-3.1:</b> The City shall develop the residential areas of San Marcos according to the Future Land Use Plan as that future growth can be accommodated, a mixture of housing types and densities can be provided, and adverse impacts from traffic, environmental hazards and incompatible land use can be avoided.</p> <p><i>Comment: The proposed change reduces the intensive use of the land to allow a mixture of housing types and densities.</i></p>
<input checked="" type="checkbox"/>			<p><b>Policy LU-3.2:</b> The City shall provide safe and adequate housing opportunities to meet the different housing needs of all income groups of the City's present and future populations. .</p> <p><i>Comment: The proposed change will provide moderate priced rental student housing.</i></p>
<input checked="" type="checkbox"/>			<p><b>Policy LU-3.3:</b> The City shall provide adequate space in appropriate locations for residential development in order to provide safe and sanitary housing, to meet the housing and social needs for a desired standard of living for the City's present and future population.</p> <p><i>Comment: The proposed change will help provide adequate space in the appropriate location for residential development to meet the housing and social needs for the City's present and future population.</i></p>
	<input checked="" type="checkbox"/>		<p><b>Policy LU-4.2:</b> The City shall encourage residential areas, especially higher density uses, have access to shopping, recreation, and work places that are convenient not only for automobile traffic but also for foot and bicycle traffic in order to minimize energy consumption, air pollution, and traffic congestion.</p> <p><i>Comment: Hopefully the increasing number of student housing in this area will encourage the market to create shopping in the immediate area that will encourage foot and bicycle traffic.</i></p>

Consistent	Neutral	Inconsistent	Sector 7 Plan Policy Statement
<input checked="" type="checkbox"/>			<p>"Neighborhood friendly" development mitigating negative impacts of higher intensity uses</p> <p><i>Comment: This proposal provides a variety of housing types without increasing the overall density beyond twelve dwelling units per acre.</i></p>
	<input checked="" type="checkbox"/>		<p><i>Interconnected streets in future development.</i></p> <p><i>Comment: This proposal meets the requirement for two points of access, but provides only minimal number of streets.</i></p>

The applicant's request is a reduction in the intensity of the Future Land Use. Staff considers the request to change land use classification to Medium Density Residential to be supportive of the Horizons Master Plan and the Sector 7 plan and recommends approval.

Planning Department Recommendation:		
<input checked="" type="checkbox"/>		Approve as submitted
<input type="checkbox"/>		Approve with conditions or revisions as noted
<input type="checkbox"/>		Alternative-Public Hearing only
<input type="checkbox"/>		Denial

### **The Commission's Responsibility:**

The Code requires the Commission to hold a public hearing and receive public comment regarding the proposed Land Use Map Amendment. The Commission's advisory recommendation to the Council is a discretionary decision. The City Council will ultimately decide whether to approve or deny this request, and will do so through the passage of an ordinance.

After considering the public input, your recommendation should be based on the "fit" of this proposal for a land use amendment with the general character, land use pattern and adopted policy for the area. Section 1.4.1.4 charges the Commission to consider the following criteria for amendments to the Master Plan's Future Land Use Map:

- Whether the amendment is consistent with the policies of the Master Plan that apply to the map being amended;
- The nature of any proposed land use associated with the map amendment; and,
- Whether the amendment promotes the orderly and efficient growth and development of the community and furthers the public health, safety and general welfare of the City.

Prepared by:

Phil Steed	Planner	July 5, 2010
Name	Title	Date

ORIGINAL SCALE  
1" = 100'

N 44°28'50" E 294.28'

WITH REMAINS OF AN OLD FENCE CITED IN  
PREVIOUS DEEDS AT LEAST BACK TO A 1946 DEED

LINE	BEARING	DISTANCE
L1	N 73°04'37" W	52.22'
L2	N 88°52'12" W	62.64'
L3	S 86°38'53" W	57.33'
L4	N 82°30'07" W	57.00'
L5	N 68°01'07" W	34.88'
L6	N 55°38'07" W	34.14'
L7	N 43°16'37" W	92.01'
L8	N 44°32'44" E	28.51'
L9	N 18°31'29" E	77.29'

## SURVEYORS NOTES

1. FENCES MEANDER.
2. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
3. ACCORDING TO SCALING FROM THE CURRENT SURVEY, A FLOOD INSURANCE RATE MAP NO. 4820B-03593F, DATED SEPTEMBER 2, 2005, THIS TRACT LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
4. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT AND THIS SURVEYOR DID NOT CONDUCT ANY RECENT RECORD SEARCHES FOR PREVIOUS CONFLICTS IN TITLE OR EASEMENT. THEREFORE, CERTAIN EASEMENTS MAY HAVE BEEN GRANTED WHICH ARE NOT REFLECTED HEREON.
5. THIS SURVEY PLAT WAS PREPARED IN CONJUNCTION WITH A DESCRIPTION DATED APRIL 27, 2010 PREPARED BY BYRN & ASSOCIATES, INC. OF SAN MARCOS, TEXAS.
6. THE DEED RECORDED IN VOLUME 3253, PAGE 205 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS STATES THAT IT CONVEYS THE PROPERTY DESCRIBED HEREIN, WHICH IS ONLY ONE OF THE SEVEN TRACTS ATTACHED TO THE DEED. THE TRACT SHOWN ON THIS SURVEY IS A PORTION OF THE TRACTS DESCRIBED IN EXHIBITS "A," "B," "C" & "E" IN SAID DEED.
7. THE BEARING BASED COORDINATE SYSTEM IS BASED ON THE STATE PLAT COORDINATE SYSTEM SOUTH CENTRAL 83 NORTH BRUSH CREEK

LEGEND

- VOL PG** HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- VOL PG** HAYS COUNTY PLAT RECORDS
- ❑ 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
  - 1/2" IRON ROD FOUND OR DIAMETER NOTED
  - 1/2" IRON PIPE FOUND OR DIAMETER NOTED
  - 1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- BREAK SCALE

LOT 1, COPPER BEECH SUBDIVISION

REMAINING PORTION OF:  
THK INVESTMENTS, INC., TO  
90 SAN MARCOS, LTD.  
(TRACT 3-68,763 ACRES)  
SEPTEMBER 12, 2007  
SEE NOTE 6

J. M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17

COPPER BEECH DRIVE  
(60' R.O.W.) PER

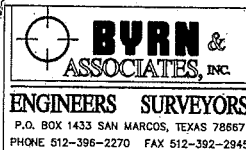
S 44°22'10" W 293.48'      S 45°16'03" W 256.58'

LOT 3  
STOREY ADDITION

TO BRECKENRIDGE PROPERTIES, EXCLUSIVELY, AND  
FOR USE WITH THIS TRANSACTION ONLY:

I HEREBY STATE TO THE BEST OF MY SKILL AND KNOWLEDGE: THAT THIS PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND ON APRIL 27, 2010 AND THAT ALL PROPERTY CORNERS ARE MONUMENTED AS SHOWN HEREON.

DAVID C. WILLIAMSON, R.P.I.S. NO. 4190

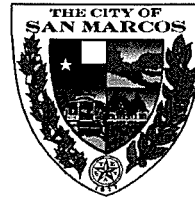


CLIENT: BRECKENRIDGE PROPERTIES  
DATE: APRIL 27, 2010  
OFFICE: BRYANT, SMITH  
CREW: EVERETT, C. SMITH  
FB/PG: 693/78  
PLAT NO. 26348-09-10-2-c

ZONING EXHIBIT OF 21.63 ACRES, MORE OR  
LESS, IN THE J. M. VERAMENDI SURVEY NO.  
2, ABSTRACT NO. 17, HAYS COUNTY, TEXAS



# **Zoning Change ZC-10-04; ZC-10-05; ZC-10-06 & ZC-10-07 Aspen Heights Tract**



## **Summary:**

The applicant is requesting four zoning changes on a 21.63 acre parcel of land in the J.M. Veramendi Survey No.2, Abstract No. 17 – known as the Aspen Heights Tract.

### **Applicant:**

Breckenridge Properties  
7004 Bee Caves, Bldg 3, Suite 330  
Austin, TX 78746

### **Property Owner:**

Sands Family  
Steve, Marvin, Linda & Sybilla Sands  
400 Briar Meadow Road  
San Marcos, TX 78666

### **Notification:**

Personal notifications of the Public hearing were mailed on July 2, 2010 to all property owners within 200 ft of subject property

### **Response:**

None as of date of report publication.

## **Subject Properties:**

### **ZC-10-04**

#### **Location:**

400 Briar Meadow Road, San Marcos, TX 78666

#### **Legal Description:**

Approximately 1.35 acres in the J.M. Veramendi Survey No. 2, Abstract No. 17, Hays County TX

#### **Sector:**

Seven

#### **Current Zoning:**

None, outside of City Limits.

#### **Proposed Zoning:**

Multi-Family Residential (MF-12)

#### **Current Future Land Use Map Designation:**

High Density Residential (HDR)

**Proposed Future Land  
Use Map Designation:**

Medium Density Residential (MDR)

**Surrounding Area:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
N of Property	None	High Density Resid
S of Property	Light Industrial	Industrial
E of Property	None	High Density Resid
W of Property	Multi-Family (MF-24)	High Density Resid

## **ZC-10-05**

**Location:**

201 Briar Meadow Road, San Marcos, TX 78666

**Legal Description:**

Approximately 4.53 acres in the J.M. Veramendi Survey No. 2, Abstract No. 17, Hays County, TX

**Sector:**

Seven

**Current Zoning:**

None, outside of City Limits.

**Proposed Zoning:**

Multi-Family Residential (MF-12)

**Current Future Land  
Use Map Designation:**

High Density Residential (HDR)

**Proposed Future Land  
Use Map Designation:**

Medium Density Residential (MDR)

**Surrounding Area:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
N of Property	None	High Density Resid
S of Property	Light Industrial	Industrial
E of Property	General Commercial	Commercial
W of Property	None	High Density Resid

## **ZC-10-06**

**Location:**

On the southeast corner of Briar Meadow Road and the Missouri Pacific RR

**Legal Description:**

Approximately 5.85 acres in the J.M. Veramendi Survey No. 2, Abstract No. 17, Hays County, TX

**Sector:**

Seven

**Current Zoning:**

Light Industrial (LI)

**Proposed Zoning:**

Multi-Family Residential (MF-12)

**Current Future Land Use  
Map Designation:** Industrial (I)

**Proposed Future Land Use  
Map Designation:** Medium Density Residential (MDR)

**Surrounding Area:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
N of Property	None	High Density Resid
S of Property	Multi-Family MF-12	Medium Density Resid
E of Property	General Commercial	Commercial
W of Property	Multi-Family MF-12	Medium Density Resid

## **ZC-10-07**

**Location:** Approximately 600 feet west of the 1900 Block of North IH-35 and 200 feet north of Mill Street extension.

**Legal Description:** Approximately 9.90 acres in the J.M. Veramendi Survey No. 2, Abstract No. 17, Hays County, TX

**Sector:** Seven

**Current Zoning:** General Commercial (GC)

**Proposed Zoning:** Multi-Family Residential (MF-12)

**Current Future Land Use  
Map Designation:** Commercial (C)

**Proposed Future Land Use  
Map Designation:** Medium Density Residential (MDR)

**Surrounding Area:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
N of Property	General Commercial	Commercial
S of Property	Multi-Family MF-12	Medium Density Resid
E of Property	General Commercial	Commercial
W of Property	Light Industrial	Industrial

### **Summary of Zoning Change Request**

The applicant is requesting the following zoning changes.

- **ZC-10-04 and ZC-10-05** from unzoned to Multi-Family Residential (MF-12)

- **ZC-10-06** from Light Industrial (LI) to Multi-Family Residential (MF-12)
- **ZC-10-07** from General Commercial (GC) to Multi-Family Residential (MF-12)

### **Project Analysis:**

The proposed Aspen Heights Development is a 21.63 acre student housing multi-family project located in the northwest quadrant of San Marcos, approximately 200 feet west of the 1900 Block of North IH-35. This development is adjacent to Copper Beech Apartments (a new student housing multi-family development that is under-construction).

The 21.63 acre site of the proposed Aspen Heights Development is composed of four parcels:

- A 1.35 acre tract that is currently outside the City Limits of San Marcos, but is in the process of voluntary annexation. This tract is currently designated as High Density Residential (HDR) on the Future Land Use Map; and is unzoned.
- A 4.53 acre tract that is also, currently outside the City Limits of San Marcos, but in the process of voluntary annexation. This tract is too, currently designated as High Density Residential (HDR) on the Future Land Use Map; and is unzoned.
- A 5.85 acre tract that is within the City Limits of San Marcos, is designated as Industrial (I) on the Future Land Use Map, and is zoned Light Industrial (LI).
- A 9.90 acre tract that is within the City Limits of San Marcos, is designated as Commercial (C) on the Future Land Use Map, and is zoned General Commercial (GC).

The Aspen Heights site plan indicates there will be a total of 213 units in this development consisting of:

- 37 homes with four bedrooms;
- 34 duplex units, each unit with two bedrooms;
- 54 duplex units, each unit with three bedrooms.
- The total bedroom count will be 608.

### **Planning Department Analysis:**

Staff has evaluated the request for consistency with the Horizons Master Plan and the Sector 7 Plan. The Sector 7 Plan calls for the Future Land Use in this area to be Medium Density Residential (MDR); some form of residential use that has a density of from 6 to 12 residential units per acre was envisioned for this area.

Consistent	Neutral	Inconsistent	Horizons Master Plan Policy Statement
<input checked="" type="checkbox"/>			<b>Policy LU-1.1.</b> The City shall ensure that all land use decisions are in accordance with the vision statement, goals, and policies in the Future Land Use Plan and other elements of the Master Plan.
<input checked="" type="checkbox"/>			<p><b>Policy LU-3.1:</b> The City shall develop the residential areas of San Marcos according to the Future Land Use Plan as that future growth can be accommodated, a mixture of housing types and densities can be provided, and adverse impacts from traffic, environmental hazards and incompatible land use can be avoided.</p> <p><i>Comment: The proposed change reduces the intensive use of the land to allow a mixture of housing types and densities.</i></p>
<input checked="" type="checkbox"/>			<p><b>Policy LU-3.2:</b> The City shall provide safe and adequate housing opportunities to meet the different housing needs of all income groups of the City's present and future populations. .</p> <p><i>Comment: The proposed change will provide moderate priced rental student housing.</i></p>
<input checked="" type="checkbox"/>			<p><b>Policy LU-3.3:</b> The City shall provide adequate space in appropriate locations for residential development in order to provide safe and sanitary housing, to meet the housing and social needs for a desired standard of living for the City's present and future population.</p> <p><i>Comment: The proposed change will help provide adequate space in the appropriate location for residential development to meet the housing and social needs for the City's present and future population.</i></p>
	<input checked="" type="checkbox"/>		<p><b>Policy LU-4.2:</b> The City shall encourage residential areas, especially higher density uses, have access to shopping, recreation, and work places that are convenient not only for automobile traffic but also for foot and bicycle traffic in order to minimize energy consumption, air pollution, and traffic congestion.</p> <p><i>Comment: Hopefully the increasing number of student housing in this area will encourage the market to create shopping in the immediate area that will encourage foot and bicycle traffic.</i></p>

Consistent	Neutral	Inconsistent	Sector 7 Plan Policy Statement
<input checked="" type="checkbox"/>			<p>"Neighborhood friendly" development mitigating negative impacts of higher intensity uses</p> <p><i>Comment: This proposal provides a variety of housing types without increasing the overall density beyond twelve dwelling units per acre.</i></p>
	<input checked="" type="checkbox"/>		<p>Interconnected streets in future development.</p> <p><i>Comment: This proposal meets the requirement for two points of access, but provides only minimal number of streets.</i></p>

The Section 1.5.1.5 of the Land Development Code establishes guidance criteria for use by the Planning and Zoning Commission to evaluate zoning changes. The consistency of this proposed change to the criteria is summarized below:

Evaluation		Criteria (LDC 1.5.1.5)
Consistent	Inconsistent	
X		<p>Change implements the policies of the adopted Master Plan, including the land use classification on the Future Land Use Map and any incorporated sector plan maps.</p> <p><b>A future land use map amendment is pending for this property. The Future Land Use Amendment staff report indicates changing to a Medium Density Residential future land use designation is consistent with a number of policy statements found in the Horizons Master Plan, as well as Sector Seven Plan.</b></p>
X		<p>Consistency with any development agreement in effect</p> <p><b>No development agreements are in effect for this property.</b></p>
X		<p>Whether the uses permitted by the proposed change and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified</p> <p><b>The uses and standards applicable to the multi-family residential district are compatible with the surrounding property.</b></p>
X		<p>Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area</p> <p><b>The applicant, at his expense, will be required to extend public services and utilities to his project.</b></p>
X		<p>Other factors which substantially affect the public health, safety, morals, or general welfare</p> <p><b>Staff has not identified other issues which substantially affect the public health, safety, morals or general welfare.</b></p>

Based on the criteria above, staff believes the applicant's request is consistent with adopted policies and plans of the city regarding development in this area. The request is reasonable based on the surrounding properties and the development pattern in that quadrant of the City.

**Staff recommends approval of the zoning change requests, subject to the following condition:**

- The Future Land Use Map Amendment requests for each associated Zoning Change request are approved.
- The annexation process involving the 1.35 acre and the 4.53 acre tracts for ZC-10-04 and ZC-10-05 be completed resulting in this property being within the City Limits.

Planning Department Recommendation:	
<input type="checkbox"/>	Approve as submitted
<input checked="" type="checkbox"/>	Approve with conditions or revisions as noted
<input type="checkbox"/>	Alternative-Public Hearing only
<input type="checkbox"/>	Denial

### **The Commission's Responsibility:**

The Commission is required by law to hold a public hearing and receive public comment regarding the proposed zoning. After considering the public input, the Commission is charged with making an advisory recommendation to the City Council regarding the request. The City Council will ultimately decide whether to approve or deny the zoning change request. The Commission's advisory recommendation to the Council is a discretionary decision.

**Prepared by:**

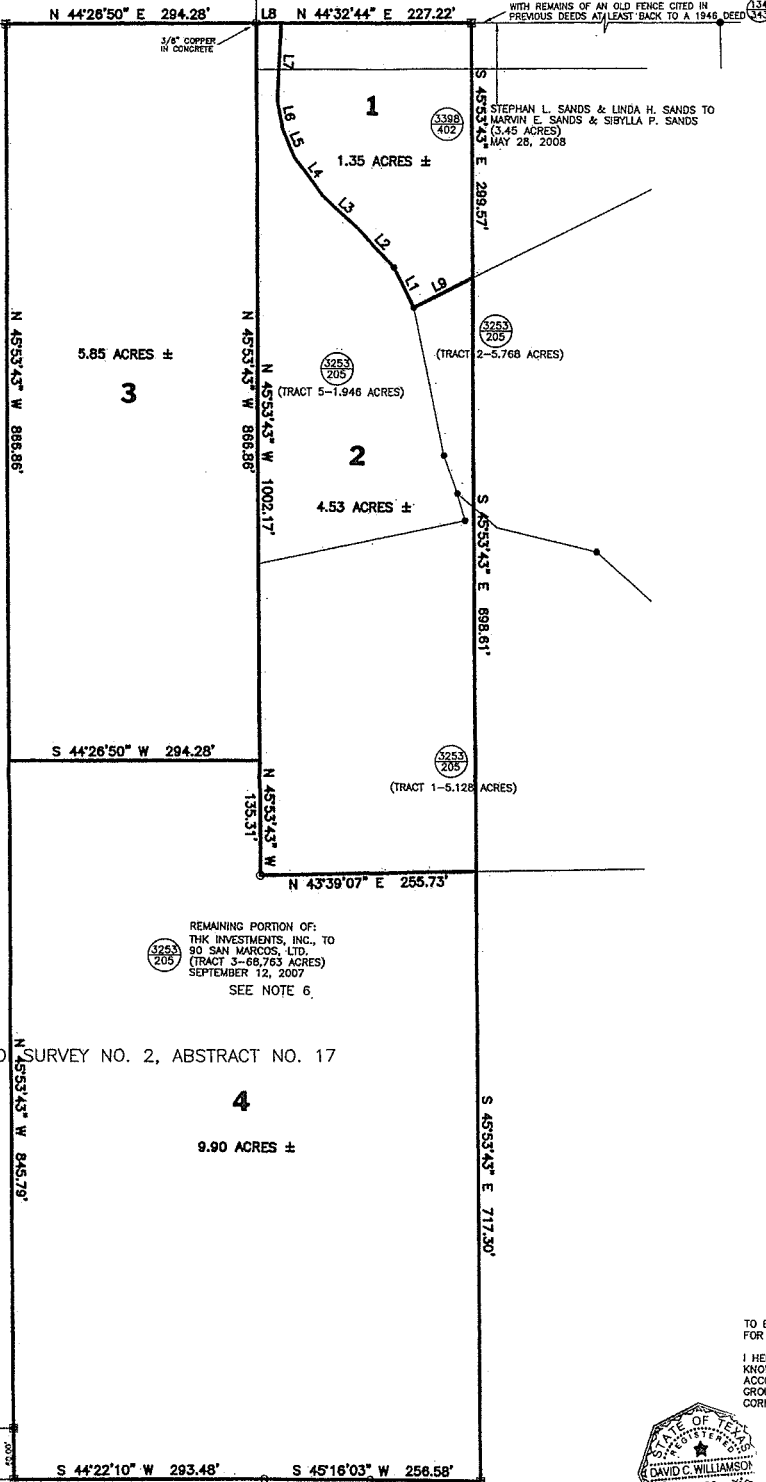
Phil Steed	Planner	July 5, 2010
Name	Title	Date

ORIGINAL SCALE  
1" = 100'

APPROXIMATE CENTERLINE  
OF TRACKS

LINE	BEARING	DISTANCE
L1	N 73°04'37" W	52.22'
L2	N 88°52'12" W	62.64'
L3	S 86°38'53" W	57.33'
L4	N 82°30'07" W	57.00'
L5	N 88°01'07" W	34.88'
L6	N 55°38'07" W	34.14'
L7	N 43°16'37" W	92.01'
L8	N 44°32'44" E	28.51'
L9	N 18°31'29" E	77.29'

LOT 1, COPPER BEECH SUBDIVISION  
[15]  
[319]



# SURVEYORS NOTES

1. FENCES MEANDER.
2. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
3. ACCORDING TO SCALING FROM THE CURRENT F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48208C0330F, DATED SEPTEMBER 2, 2005, THIS TRACT LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
4. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT AND THIS SURVEYOR DID NOT RESEARCH THE DEED RECORDS FOR PREVIOUS CONFLICTS IN TITLE OR EASEMENT. THEREFORE, CERTAIN EASEMENTS MAY HAVE BEEN GRANTED WHICH ARE NOT REFLECTED HEREON.
5. THIS SURVEY PLAT WAS PREPARED IN CONJUNCTION WITH A LAND DESCRIPTION DATED APRIL 27, 2010 PREPARED BY BYRN & ASSOCIATES, INC. OF SAN MARCOS, TEXAS.
6. THE DEED RECORDED IN VOLUME 3253, PAGE 205 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS STATES THAT IT CONVEYS THE PROPERTY DESCRIBED ON EXHIBIT "A", WHICH IS ONLY ONE OF THE SEVEN TRACTS ATTACHED TO THE DEED. THE TRACT SHOWN ON THIS SURVEY IS A PORTION OF THE TRACTS DESCRIBED IN EXHIBITS "A", "B", "C", "D", "E" IN SAID DEED.
7. THE BEARING BASIS FOR THIS SURVEY IS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, AND REFERS TO GRID NORTH.

## LEGEND

- [VOL PG] HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- [VOL PG] HAYS COUNTY PLAT RECORDS
- [ ] 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- [ ] 1/2" IRON ROD FOUND OR DIAMETER NOTED
- [ ] 1/2" IRON PIPE FOUND OR DIAMETER NOTED
- [ ] 1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- [ ] BREAK SCALE

CLIENT: BRECKENRIDGE PROPERTIES  
DATE: APRIL 27, 2010  
OFFICE: BRYANT, SMITH  
CREW: EVERETT, C. SMITH  
FB/PIC: 693/78  
PLAT NO. 26348-09-10-2-c



DESCRIPTION, FOR ZONING PURPOSES ONLY, OF 1.35 ACRES, MORE OR LESS, OF LAND AREA IN THE J. M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 3.45 ACRES IN A DEED FROM STEPHEN L. SANDS AND LINDA H. SANDS TO MARVIN E. SANDS AND SIBYLLA P. SANDS DATED MAY 28, 2008 AND RECORDED IN VOLUME 3398, PAGE 402 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a ½" iron rod found in the north line of that tract described as "Tract 5-1.946 acres" in a deed from THK Investments, Inc. to 90 San Marcos, Ltd., dated September 12, 2007 and recorded in Volume 3253, Page 205 of the Hays County Official Public Records for the southeast corner of this description and the Sands 3.45 acres tract and west corner of that tract described as "Tract 2-5.768 acres" in the previously mentioned deed to 90 San Marcos, Ltd.;

**THENCE** leaving the 90 San Marcos Tract 2 and the **PLACE OF BEGINNING** as shown on that plat numbered 26348-09-10-2-c dated April 27, 2010 prepared for Breckenridge Properties by Byrn & Associates, Inc., of San Marcos, Texas, with the common south line of the Sands 3.45 acre tract and north line of the 90 San Marcos Tract 5 the following seven courses:


1. **N 73°04'37" W 52.22 feet** to a ½" iron rod found for an angle point,
2. **N 88°51'12" W 62.64 feet** to a point for an angle point,
3. **S 86°38'53" W 57.33 feet** to a point for an angle point,
4. **N 82°30'07" W 57.00 feet** to a point for an angle point,
5. **N 68°01'07" W 34.88 feet** to a point for an angle point,
6. **N 55°38'07" W 34.14 feet** to a point for an angle point, and
7. **N 43°16'37" W 92.01 feet** to a point for the southwest corner of this description and the Sands 3.45 acre tract northwest corner of the 90 San Marcos Tract 5, said point being in old fence remains in the occupied southeast line of the railroad R.O.W.;

**THENCE** leaving the 90 San Marcos Tract 5 with the northwest of the Sands 3.45 acre tract and along the old fence remains, **N 44°32'44" E 227.22 feet** to a ½" iron rod set for the north corner of this description,

**THENCE** leaving the remains of the old fenced line of the railroad crossing the Sands 3.45 acre tract, **S 45°53'43" E 299.57 feet** to a point in the west line of the previously mentioned 90 San Marcos Tract 2 for the east corner of this description;

**THENCE** with the common west line of the 90 San Marcos Tract 2 and east line of the Sands 3.45 acre tract, **S 18°31'29" W 77.29 feet** to the **PLACE OF BEGINNING**.

There are contained within these metes and bounds 1.35 acres, more or less, for zoning purposes only, as prepared from public records and a survey made on the ground on April 27, 2010 by Byrn & Associates, Inc. of San Marcos, Texas. All ½" iron rods set are capped with a plastic cap stamped "Byrn Survey". The bearing basis for this description is based on the Texas State Plane Coordinate System, South Central Zone, and refers to Grid North.

  
David C. Williamson, R.P.L.S. #4190



Client: Breckenridge Properties  
Date: April 27, 2010  
Survey: Veramendi, No.2, J.M.  
County: Hays, TX  
Job No.: 26348-09-10  
FND 1.35

DESCRIPTION, FOR ZONING PURPOSES ONLY, OF 4.53 ACRES, MORE OR LESS, OF LAND AREA IN THE J. M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17, HAYS COUNTY, TEXAS, BEING A PORTION OF THOSE TRACTS DESCRIBED AS "TRACT 1 - 5.128 ACRES", "TRACT 2 - 5.768 ACRES", AND "TRACT 5 - 1.946 ACRES" IN A DEED FROM THK INVESTMENTS, INC. TO 90 SAN MARCOS, LTD., DATED SEPTEMBER 12, 2007 AND RECORDED IN VOLUME 3253, PAGE 205 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 3/8" copper pipe in concrete found in old fence remains of the occupied southeast line of the railroad R.O.W. for the west corner of this description and the 90 San Marcos Tract 5 and a northwest corner of that tract described as "Tract 3-68.763 acres" in the deed to 90 San Marcos, Ltd.;

**THENCE** leaving the 90 San Marcos Tract 3 and the **PLACE OF BEGINNING** as shown on that plat numbered 26348-09-10-2-c dated April 27, 2010 prepared for Breckenridge Properties by Byrn & Associates, Inc., of San Marcos, Texas, with the northwest line of the 90 San Marcos Tract 5 and old fence remains, **N 44°32'44" E 28.51 feet** to a point for the northwest corner of the 90 San Marcos Tract 5 and southwest corner of that tract described as 3.45 acres in a deed from Stephen L. Sands and Linda H. Sands to Marvin E. Sands and Sibylla P. Sands dated May 28, 2008 and recorded in Volume 3398, Page 402 of the Hays County Official Public Records;

**THENCE** leaving the occupied railroad line with the common north line of the 90 San Marcos Tract 5 and south line of the Sands tract the following seven courses:

1. **S 43°16'37" E 92.01 feet** to a point for an angle point,
2. **S 55°38'07" E 34.14 feet** to a point for an angle point,
3. **S 68°01'07" E 34.88 feet** to a point for an angle point,
4. **S 82°30'07" E 57.00 feet** to a point for an angle point,
5. **N 86°38'53" E 57.33 feet** to a point for an angle point,
6. **S 88°52'12" E 62.64 feet** to a 1/2" iron rod found for an angle point, and
7. **S 73°04'37" E 52.22 feet** to a 1/2" iron rod found for the southeast corner of the Sands tract and southwest corner of the previously mentioned 90 San Marcos Tract 2;

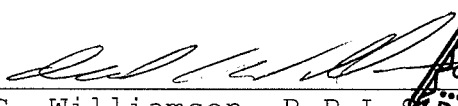
**THENCE** leaving the 90 San Marcos Tract 5 with the common east line of the Sands tract and west of the 90 San Marcos Tract 2, **N 18°31'29" E 77.29 feet** to a point for the north corner of this description;

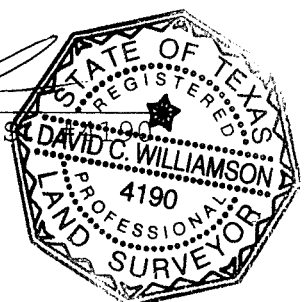
**THENCE** leaving the Sands tract crossing the 90 San Marcos Tract 2, and the previously mentioned 90 San Marcos Tract 1, **S 45°53'43" E 698.61 feet** to a point in the southeast line of the 90 San Marcos Tract 1 and a north line of the previously mentioned 90 San Marcos Tract 3, for the east corner of this description;

**THENCE** with the common northeast line of the 90 San Marcos Tract 3 and southeast line of the 90 San Marcos Tract 1, **S 43°39'07" W 255.73 feet** to a  $\frac{1}{2}$ " iron pipe found for the south corner of this description and the 90 San Marcos tract 1 and interior north corner of the 90 San Marcos Tract 3;

**THENCE** leaving with the common north line of the 90 San Marcos Tract 3 and southwest line of the 90 San Marcos Tract 1 and Tract 5, **N 45°53'43" W 1002.17 feet** to the **PLACE OF BEGINNING**.

There are contained within these metes and bounds 4.53 acres, more or less, for zoning purposes only, as prepared from public records and a survey made on the ground on April 27, 2010 by Byrn & Associates, Inc. of San Marcos, Texas. All  $\frac{1}{2}$ " iron rods set are capped with a plastic cap stamped "Byrn Survey". The bearing basis for this description is based on the Texas State Plane Coordinate System, South Central Zone, and refers to Grid North.

  
David C. Williamson, R.P.L.S.



Client: Breckenridge Properties  
Date: April 27, 2010  
Survey: Veramendi, No.2, J.M.  
County: Hays, TX  
Job No.: 26348-10-2  
FND 4.53

DESCRIPTION, FOR ZONING PURPOSES ONLY, OF 5.85 ACRES, MORE OR LESS, OF LAND AREA IN THE J. M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS "TRACT 3 - 68.763 ACRES" IN A DEED FROM THK INVESTMENTS, INC. TO 90 SAN MARCOS, LTD., DATED SEPTEMBER 12, 2007 AND RECORDED IN VOLUME 3253, PAGE 205 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 3/8" copper pipe in concrete found in old fence remains of the occupied southeast line of the railroad R.O.W. for the north corner of this description and the 90 San Marcos Tract 3 and west corner of that tract described as "Tract 5-1.946 acres" in the deed to 90 San Marcos, Ltd.;

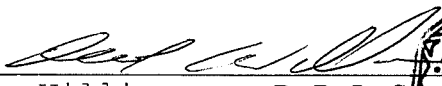
**THENCE** leaving the occupied railroad R.O.W. and the **PLACE OF BEGINNING** as shown on that plat numbered 26348-09-10-2-c dated April 27, 2010 prepared for Breckenridge Properties by Byrn & Associates, Inc. of San Marcos, Texas, with the common line of the 90 San Marcos Tract 3, Tract 5 and Tract 1, **S 45°53'43" E 866.86 feet** to a point for the east corner of this description;

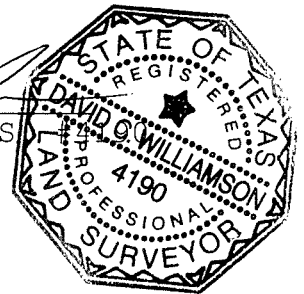
**THENCE** leaving the 90 San Marcos Tract 1, **S 44°26'50" W 294.28 feet** to a point in the northeast line of Lot 1, Copper Beech Subdivision as recorded in Volume 15, Page 319 of the Hays County Plat Records;

**THENCE** with said line **N 45°53'43" W 866.86 feet** to a 1/2" iron rod set in the southeast occupied railroad R.O.W. and northwest line of the 90 San Marcos Tract 3 for the west corner of this description and north corner of Lot 1, Copper Beech Subdivision;

**THENCE** leaving Copper Beech Subdivisions with the northwest line of the 90 San Marcos Tract 3, **N 44°26'50" E 294.28 feet** to the **PLACE OF BEGINNING**.

There are contained within these metes and bounds 5.85 acres, more or less, for zoning purposes only, as prepared from public records and a survey made on the ground on April 27, 2010 by Byrn & Associates, Inc. of San Marcos, Texas. All ½" iron rods set are capped with a plastic cap stamped "Byrn Survey". The bearing basis for this description is based on the Texas State Plane Coordinate System, South Central Zone, and refers to Grid North.

  
\_\_\_\_\_  
David C. Williamson, R.P.L.S.



Client: Breckenridge Properties  
Date: April 27, 2010  
Survey: Veramendi, No.2, J.M.  
County: Hays, TX  
Job No.: 26348-10-2  
FND 5.85

DESCRIPTION, FOR ZONING PURPOSES ONLY, OF 9.90 ACRES, MORE OR LESS, OF LAND AREA IN THE J. M. VERAMENDI SURVEY NUMBER 2, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED "AS TRACT 3 - 68.763 ACRES" IN A DEED FROM THK INVESTMENTS, INC. TO 90 SAN MARCOS, LTD. DATED SEPTEMBER 12, 2007 AND RECORDED IN VOLUME 3253, PAGE 205 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a ½" iron rod set in the southeast line of the 90 San Marcos 68.763 acre Tract 3 and northwest line of Lot 3, Storey Addition as recorded in Volume 5, Page 179 of the Hays County Plat Records for the south corner of this description and east corner of Copper Beech Drive, a 60 foot wide strip dedicated to the public by the plat of Copper Beech Subdivision as recorded in Volume 15, Page 319 of the Hays County Plat Records;

**THENCE** leaving Lot 3, Storey Addition and the **PLACE OF BEGINNING** as shown on that plat numbered 26348-09-10-2-c dated April 27, 2010 prepared for Breckenridge Properties by Byrn & Associates, Inc. of San Marcos, Texas, with the northeast line of Copper Beech Subdivision **N 45°53'43" W 845.79 feet** to a point for the west corner of this description;

**THENCE** leaving Copper Beech Subdivision **N 44°26'50" E 294.28 feet** to a point in the southwest line of the 90 San Marcos 5.128 acre Tract 1 for the northwest corner of this description;

**THENCE** with the common line of the 90 San Marcos Tract 1 and Tract 3 the following two courses:

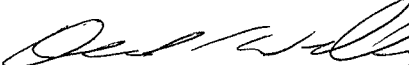
1. **S 45°53'43" E 135.31 feet** to a point, and
2. **N 43°39'07" E 255.73 feet** to a point for the northeast corner of this description;

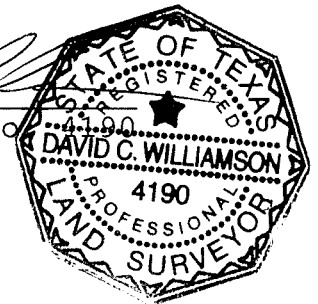
**THENCE** leaving the 90 San Marcos Tract 1 crossing the 90 San Marcos Tract 3 the following two courses:

1. **S 45°53'43" E 717.30 feet** to a point for the east corner of this description, and
2. **S 45°16'03" W 256.58 feet** to a  $\frac{1}{2}$ " iron rod pipe found in the northwest line of Lot 3, Storey Addition;

**THENCE** with said line **S 44°22'10" W 293.48 feet** to the **PLACE OF BEGINNING.**

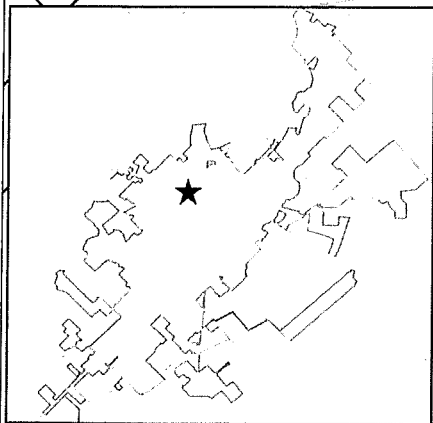
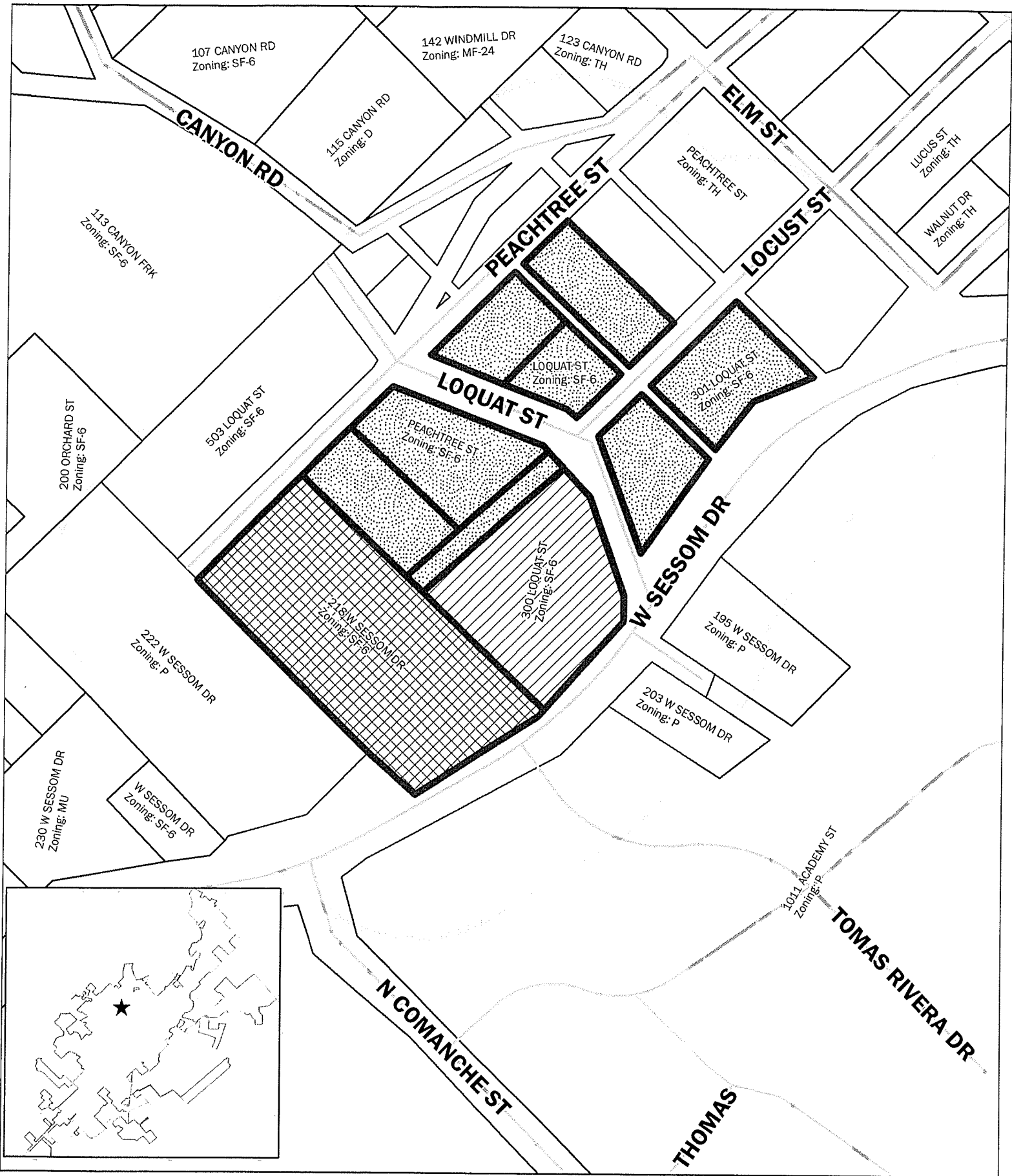
There are contained within these metes and bounds 9.90 acres, more or less, for zoning purposes only, as prepared from public records and a survey made on the ground on April 27, 2010 by Byrn & Associates, Inc. of San Marcos, Texas. The Bearing Basis for this description is based on the Texas State Plane Coordinate System, South Central Zone, and refers to Grid North.

  
David C. Williamson, R.P.L.S. No. 4190







Client: Breckenridge Properties  
Date: April 27, 2010  
Survey: Veramendi, J.M.  
County: Hays, Texas  
Job No: 26348-09-10-2  
END9.90





# **Loquat Multi-Family Project** **Map Date: 06/23/10**

-  LUA-10-05; ZC-10-08
-  LUA-10-06; ZC-10-09
-  LUA-10-07; ZC-10-10
-  200' Notification Buffer

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.

0 90 180 360  
 Feet





Property Management Company

July 7, 2010

Abigail Gillfillan  
Planning Department  
City of San Marcos  
630 East Hopkins  
San Marcos, TX 78666

Re: Postponement

Ms. Gillfillan

I am writing to request a postponement of the following cases:

LUA-10-05; LUA-10-06; LUA-10-07  
ZC-10-08; ZC-10-09; ZC-10-10

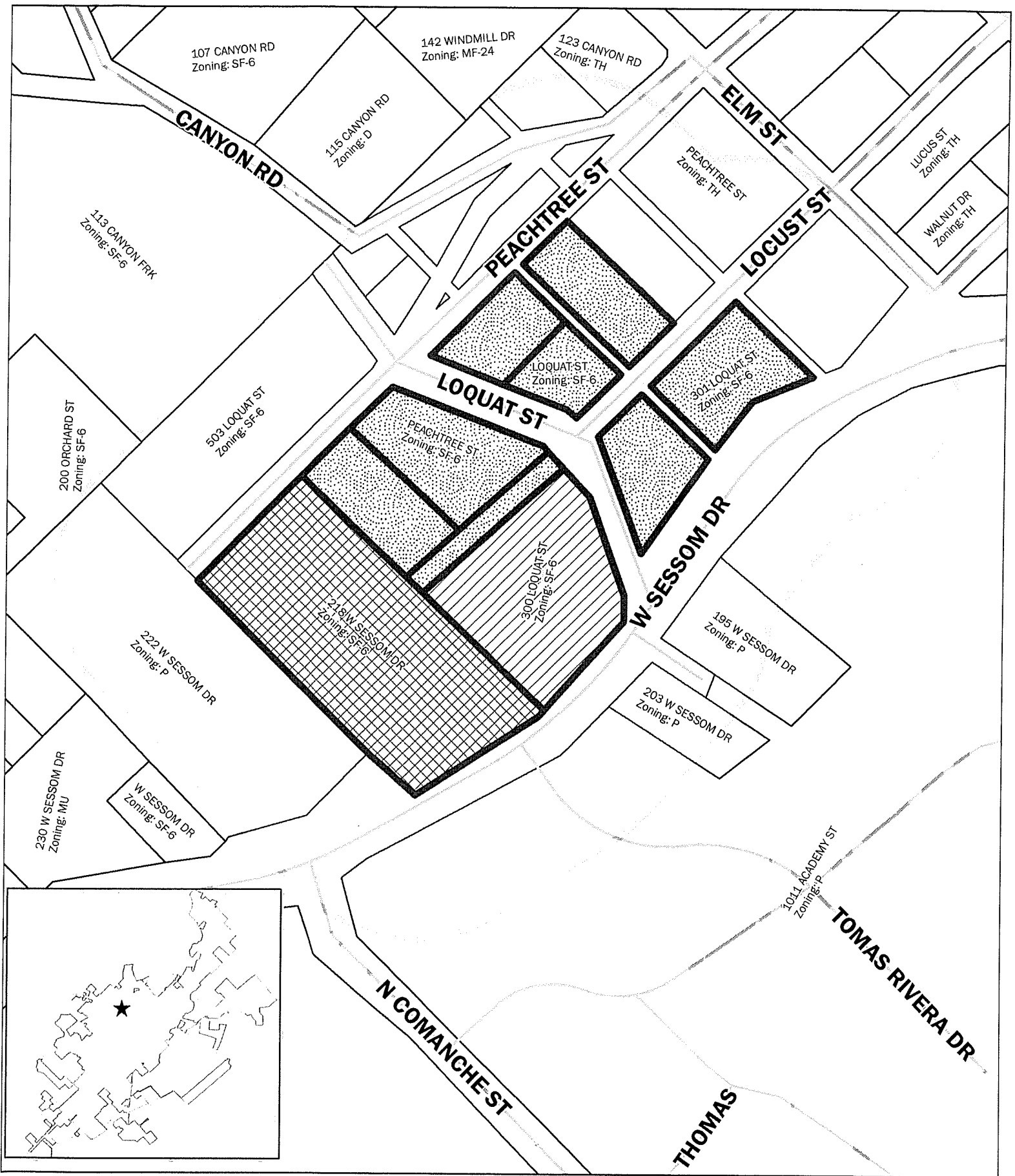
We will be pursuing a PDD zoning instead of the MF-24 listed.

Thank you,





A handwritten signature in black ink, appearing to read 'Mac Jones', with a long, sweeping horizontal line extending to the right.

Mac Jones  
Hammond Jones Development

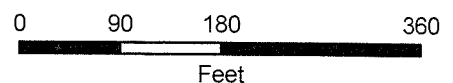
:



# **Loquat Multi-Family Project** **Map Date: 06/23/10**

-  LUA-10-05; ZC-10-08
-  LUA-10-06; ZC-10-09
-  LUA-10-07; ZC-10-10
-  200' Notification Buffer

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.





Property Management Company

July 7, 2010

Abigail Gillfillan  
Planning Department  
City of San Marcos  
630 East Hopkins  
San Marcos, TX 78666

Re: Postponement

Ms. Gillfillan

I am writing to request a postponement of the following cases:

LUA-10-05; LUA-10-06; LUA-10-07  
ZC-10-08; ZC-10-09; ZC-10-10

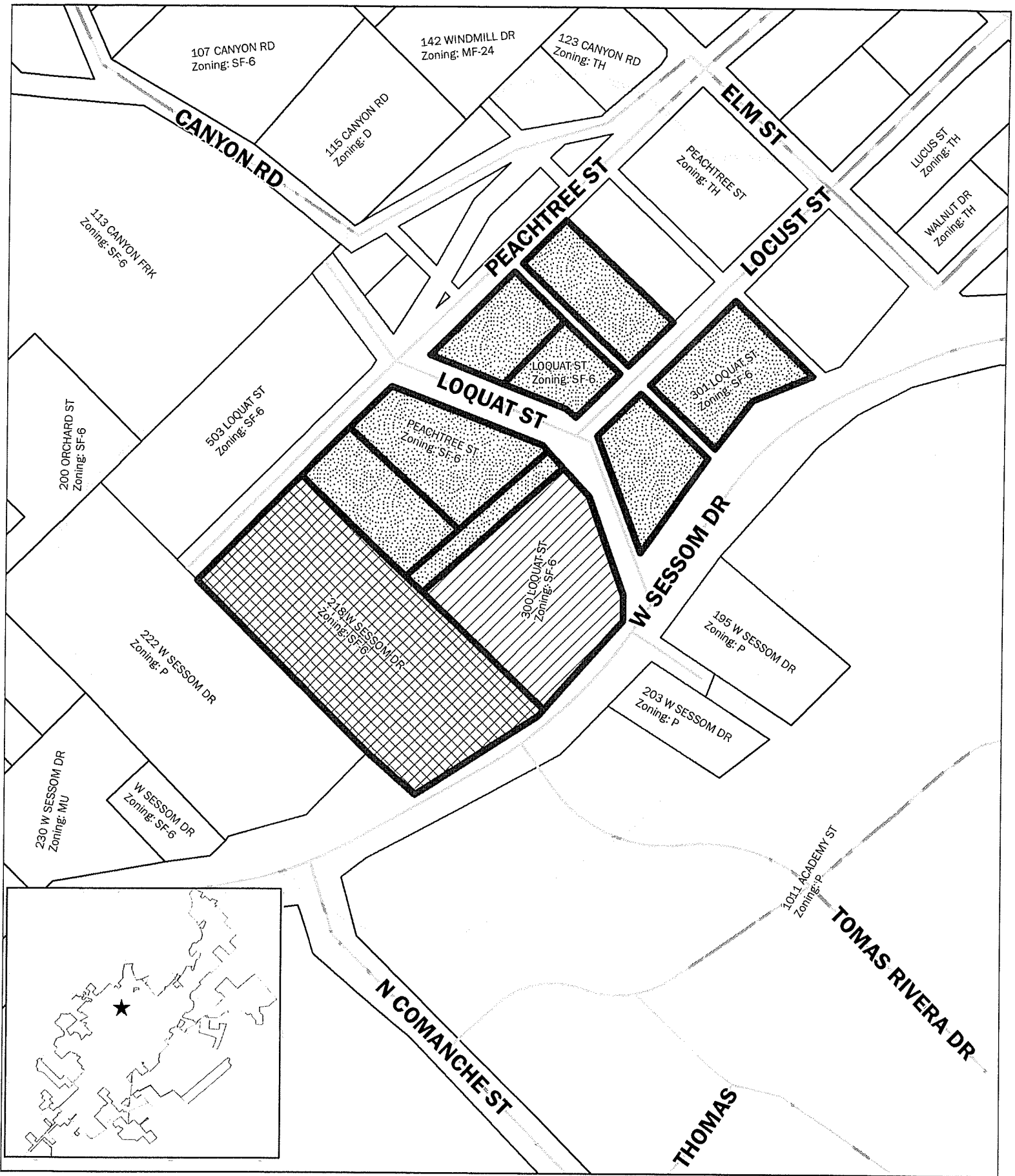
We will be pursuing a PDD zoning instead of the MF-24 listed.

Thank you,




A handwritten signature in black ink, appearing to read 'Mac Jones', with a long horizontal flourish extending to the right.

Mac Jones  
Hammond Jones Development

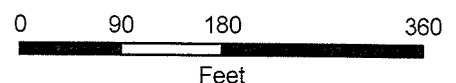
:



# **Loquat Multi-Family Project** **Map Date: 06/23/10**

-  LUA-10-05; ZC-10-08
  -  LUA-10-06; ZC-10-09
  -  LUA-10-07; ZC-10-10
- 200' Notification Buffer

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.





Property Management Company

July 7, 2010

Abigail Gillfillan  
Planning Department  
City of San Marcos  
630 East Hopkins  
San Marcos, TX 78666

Re: Postponement

Ms. Gillfillan

I am writing to request a postponement of the following cases:

LUA-10-05; LUA-10-06; LUA-10-07  
ZC-10-08; ZC-10-09; ZC-10-10

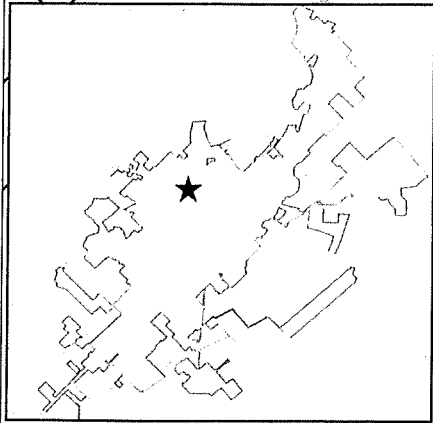
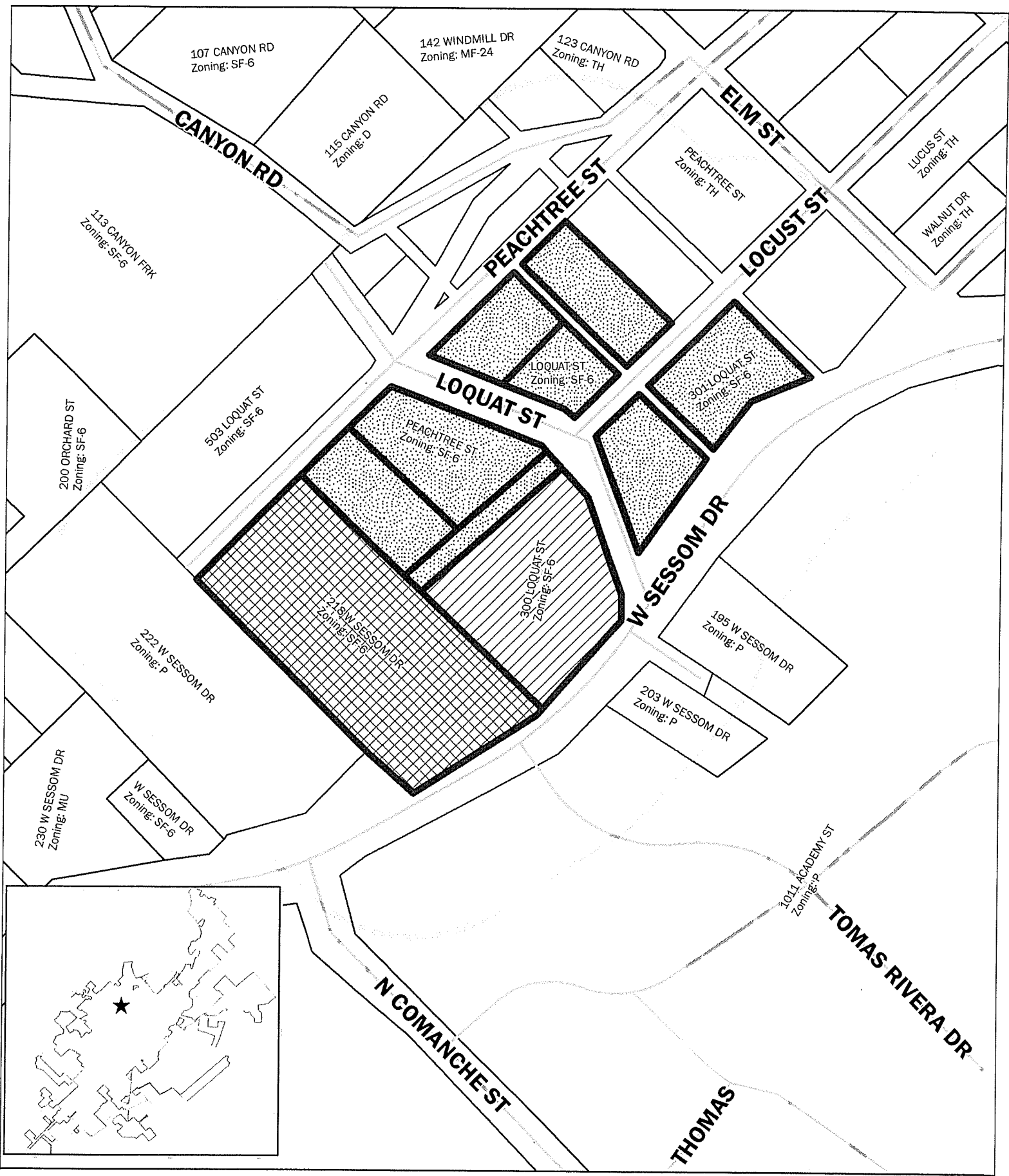
We will be pursuing a PDD zoning instead of the MF-24 listed.

Thank you,





A handwritten signature in black ink, appearing to read 'Mac Jones', with a long horizontal flourish extending to the right.

Mac Jones  
Hammond Jones Development

:



# **Loquat Multi-Family Project** **Map Date: 06/23/10**

-  LUA-10-05; ZC-10-08
-  LUA-10-06; ZC-10-09
-  LUA-10-07; ZC-10-10
-  200' Notification Buffer

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.

0 90 180 360  
Feet

N



Property Management Company

July 7, 2010

Abigail Gillfillan  
Planning Department  
City of San Marcos  
630 East Hopkins  
San Marcos, TX 78666

Re: Postponement

Ms. Gillfillan

I am writing to request a postponement of the following cases:

LUA-10-05; LUA-10-06; LUA-10-07  
ZC-10-08; ZC-10-09; ZC-10-10

We will be pursuing a PDD zoning instead of the MF-24 listed.

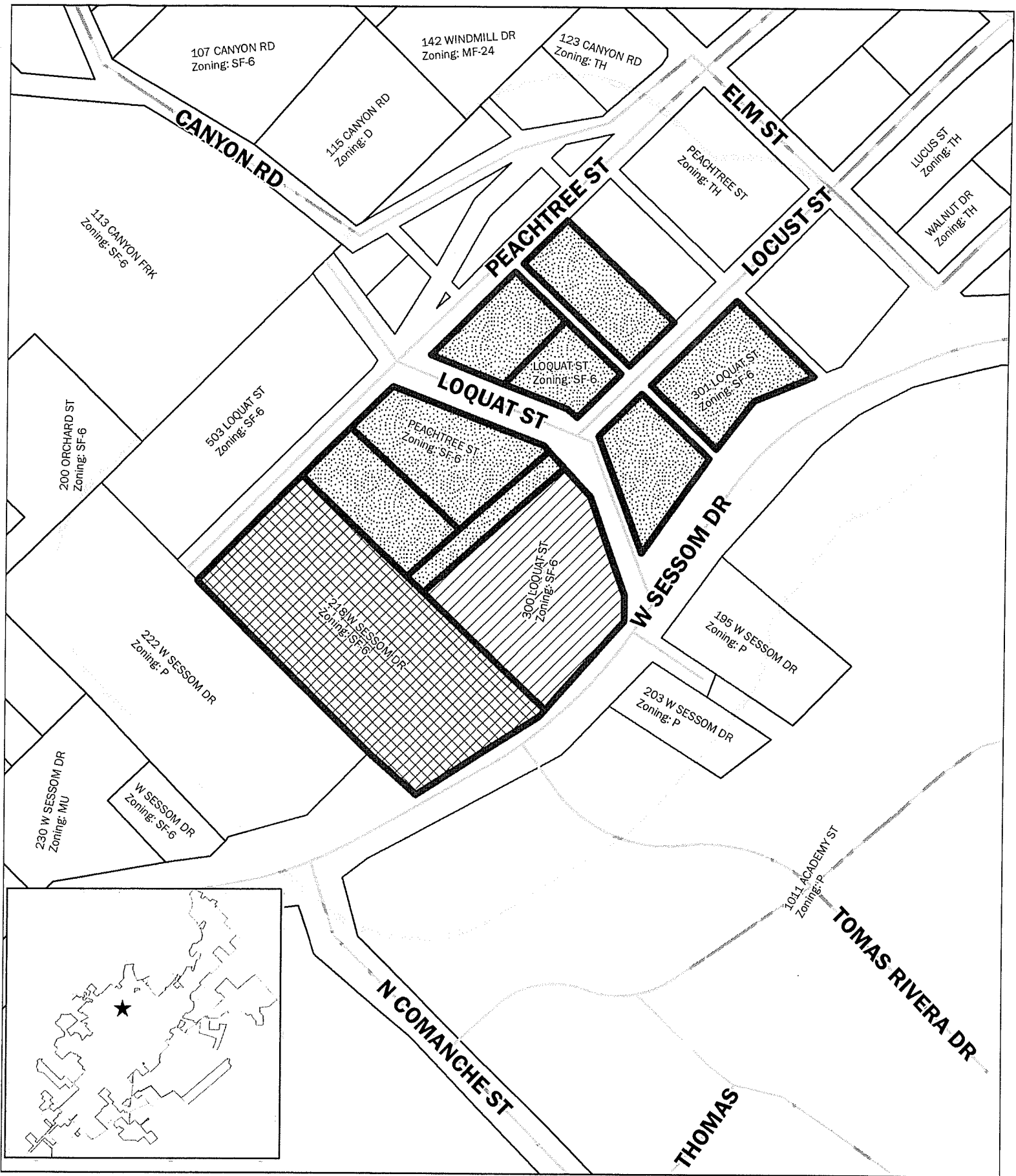
Thank you,

A handwritten signature in black ink, appearing to read 'Mac Jones', with a long horizontal flourish extending to the right.





Mac Jones  
Hammond Jones Development

:





# **Loquat Multi-Family Project** **Map Date: 06/23/10**

- 
 LUA-10-05; ZC-10-08
- 
 LUA-10-06; ZC-10-09
- 
 LUA-10-07; ZC-10-10
- 
 200' Notification Buffer

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.

0 90 180 360  
Feet

N



Property Management Company

July 7, 2010

Abigail Gillfillan  
Planning Department  
City of San Marcos  
630 East Hopkins  
San Marcos, TX 78666

Re: Postponement

Ms. Gillfillan

I am writing to request a postponement of the following cases:

LUA-10-05; LUA-10-06; LUA-10-07  
ZC-10-08; ZC-10-09; ZC-10-10

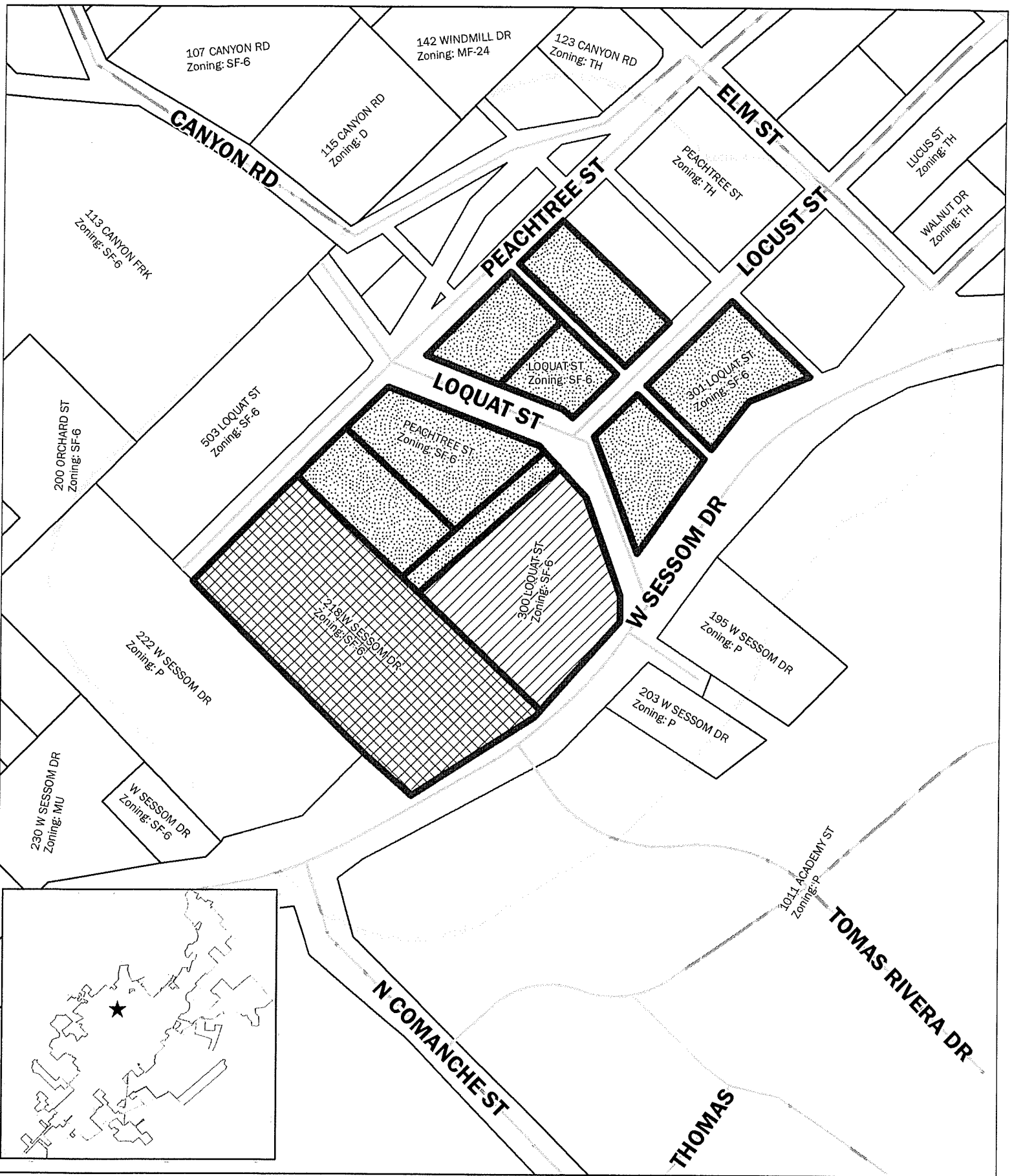
We will be pursuing a PDD zoning instead of the MF-24 listed.

Thank you,





A handwritten signature in black ink, appearing to read 'Mac Jones', with a long, sweeping horizontal line extending to the right.

Mac Jones  
Hammond Jones Development

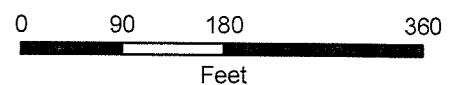
:



# **Loquat Multi-Family Project** **Map Date: 06/23/10**

-  LUA-10-05; ZC-10-08
-  LUA-10-06; ZC-10-09
-  LUA-10-07; ZC-10-10
-  200' Notification Buffer

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.





Property Management Company

July 7, 2010

Abigail Gillfillan  
Planning Department  
City of San Marcos  
630 East Hopkins  
San Marcos, TX 78666

Re: Postponement

Ms. Gillfillan

I am writing to request a postponement of the following cases:

LUA-10-05; LUA-10-06; LUA-10-07  
ZC-10-08; ZC-10-09; ZC-10-10

We will be pursuing a PDD zoning instead of the MF-24 listed.

Thank you,

A handwritten signature in black ink, appearing to read 'Mac Jones', with a long horizontal flourish extending to the right.

Mac Jones  
Hammond Jones Development

:



# Memo

**To:** Planning Commission Chair Bishop and Commissioners

---

**From:** Abigail Gillfillan  
Planner

---

**Date:** July 7, 2010

---

**Re:** An appeal of the Planning Directors decision that gaming facilities are not similar enough to Indoor Amusement facilities.

---

As the City grows and new types of businesses wish to locate in San Marcos new types of land uses arise that are not currently listed in our Land Use Matrix. When uses that are not specifically listed in the land use matrix arise, section 4.3.1.1.d of the Land Development Code outlines the following process for classifying new or unlisted land uses.

Recently, Ms. Molly Harris submitted a request for a "gaming facility." Staff reviewed the request and determined that a gaming facility is not similar enough to any of the current uses within the land use matrix. Ms. Harris has submitted the attached request as permitted by Section 4.3.1.1 d(3) of the LDC, as an appeal of staffs findings. Ms. Harris is requesting for this use to be considered as similar to indoor amusement and that it be permitted in the same locations as indoor amusement.

Staff has reviewed this request and has included a worksheet comparing the two uses below:

## Classification of New/Unlisted Uses – Information to Consider

Section 4.3.1.1.d (1) a.

Factor Listed in Land Development Code	Charitable Sweepstakes	Indoor Amusement Services
Nature of Use	Electronic sweepstakes with the proceeds going to charity sources. There is an opportunity for the patron to win money	Provides patrons with entertainment there is no chance to make money from winning
Types of Services Provided	Up to 40 Game terminals Sweepstake prizes	activities, services and instruction for the entertainment of customers or members, but not including amusement arcades.
Special Equipment	On site cooler storage for bodies, x-ray capability, body weight scale, autopsy suite with at least two autopsy slots	May include bowling alley, swimming pool etc..
Anticipated Employment	4 to 5 employees, either part or full time	Similar
Hours of Operation	10AM to 10PM Mon. – Thursday 10AM to 12AM Friday and Saturday	Not usually open as late
Proposed size of building	Small Office Space	Usually larger space

While there are some similarities between the proposed use and the land use category Amusement Services staff does not believe the nature of the proposed use is similar enough. Staff also does not believe that the definition of either Amusement Services or Amusement Devices Indoors is consistent with the proposed gaming facility. The definitions from the LDC are included below for your review:

5. *Amusement devices/arcade (Also Video arcade): Any building, room, place or establishment of any nature or kind, and by whatever name called, where more than ten percent of the public floor area is devoted to three or more amusement devices that are operated for a profit, whether the same is operated in conjunction with any other business or not, including but not limited to such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices. However, the term "amusement device", as used herein, shall not include musical devices, billiard tables which are not coin-operated, machines that are designed exclusively for small children, and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports.*
6. *Amusement services (indoors): An amusement enterprise that is wholly enclosed within a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, and that provides activities, services and instruction for the entertainment of customers or members, but not including amusement arcades. Uses may include, but are not limited to, the following:*

*bowling alley, ice skating rink, martial arts club, racquetball or handball club, indoor tennis courts or club, indoor swimming pool or scuba diving facility, and other similar types of uses.*

The options before the Commission tonight include a finding that:

- The proposed use is not similar enough to any existing zoning categories and should not be allowed
- The proposed use is not similar enough to any existing zoning categories and a new classification should be added to the matrix
- The proposed use is similar enough to Amusement Services or Amusement Devices/Arcade and should be treated the same.

# LONE STAR , INC.

---

June 9, 2010

The City of San Marcos  
Planning Department  
630 E. Hopkins Street  
San Marcos, Texas 78666

Re: New or Unlisted Use Classification

Sirs:

As previously discussed, I respectfully request your consideration for an expeditious resolution to the issue regarding an appropriate classification for my business. I understand that specific information is needed in order to conduct a New or Unlisted Classification review. Accordingly, I am enclosing additional information regarding the nature, use and requirements of my business to assist in this review.

I continue to be available to answer any questions you may have or to assist in any way possible. I can be reached at 512-848-3052. Please do not hesitate to call.

Sincerely,



Molly Harris  
Lone Star Inc.

REC'D JUN 09 2010



## ARTICLE 3: USE REGULATIONS

### DIVISION 1: INTERPRETIVE RULES AND LAND USE MATRIX

#### Section 4.3.1.1. Interpretive Rules

(a)

(b)

(c)

#### (d) Classification of New/Unlisted Uses

(1).....may propose zoning amendments to regulate new and previously unlisted uses. A person requesting the addition of a new or unlisted use shall submit to the Planning Director, or his/her designee, all information necessary for the classification of the use, including but not limited to:

- a. **The nature of the use and whether the use involves dwelling activity, sales, services, or processing.**

The use will be more closely related to services. Specifically, the use will be for a Charitable Promotion Sweepstake Center sponsored by the Children's Cancer Cooperative and operated by Lone Star, Inc. The Center encourages charitable donations by facilitating a convenient and accessible location and providing entertaining game terminals for patron's use. Patrons may use the game terminals to reveal their winning or losing entries.

Patrons do not have to pay to play. A patron receives 100 points upon registering and may request an additional 100 points every 24 hours. Should the patron wish to donate additional funds, then the donation will be converted into points and credited to the patron's account. The conversion is : For every dollar donated, the patron will received 100 points.

The game terminals may or may not be used to reveal patron's prizes, if any. The patron may choose to have the sweepstakes points revealed at the Cashier's Center immediately, or may opt to use the game terminals to reveal results themselves.

The Sweepstakes game terminals, ie, software does not involve any actual gaming. Rather, patrons may choose to use entertaining game simulators to reveal whether their sweepstakes points are *predetermined* winning or losing entries. In addition, the patron may choose to use the game terminal and not participate in game playing. They can simply select "reveal results" on any game simulation screen.

All donated funds, except sweepstakes promotion overhead, are paid to and benefit the Children's Cancer Cooperative. In Texas, the Children's Cancer Cooperative makes donations to non-profit organizations such as the Shriner's Hospital.

The Center proposes to install 40 game terminals at a location with approximately 1500 square feet. The game terminals (computers) and accompanying computer desks measure approximately 28" wide X 34" high. Computer desks are not easily moved and will remain stationed.

**b. The type of product sold or produced under the use.**

The Center will provide an entertaining environment that will encourage donations that will benefit the Children's Cancer Cooperative. The donations in turn, will benefit the Children's Health Programs in Texas. Patrons may make donations while enjoying some entertaining activity by playing the game terminals, watching TV, or simply socializing. Or, the patron may wish to have his free sweepstake points revealed to determine their winnings.

**c. Whether the use has enclosed or open storage and the amount and nature of storage.**

Storage is not needed. Other than storing supplies, everything else is in full view. For storing supplies, a small closet or large drawers will suffice.

**d. Anticipated employment typically anticipated with the use.**

Four to Five employees will be hired for this operation. All will function as Cashiers/Computer Assistants. Peripheral employment will touch on local delivery of soft beverages, chips and pizza. Weekly purchases of toiletries, all purpose cleaners, office supplies, etc. are anticipated.

**e. Transportation requirements, including approximate mileage, turning radius, or driving time of the expected client or patron basis.**

There are no transportation requirements. Patrons may be expected to drive from an approximate 15 mile radius.

**f. The nature and time of occupancy and operation of the premises.**

The nature of the business is an entertainment Charitable Donation Sweepstake Center. Patrons come to the Center to reveal their sweepstakes winning or losing entries. Entries are available either as a direct result of requesting free points through the mail, or by appearing in person and requesting free points at the Cashier Center. Patrons may choose to reveal their winnings either by asking for an immediate reveal by-passing the game terminals – or may choose to play a game terminal to reveal their winnings, if any. It will not be necessary for patrons to make donations to reveal their entries.

The promotional sweepstakes results are predetermined, according to the posted odds, so making a donation does not increase or alter the odds of winning a prize.

Official Sweepstake Rules are posted throughout the Center. The current, **Frontier Odds of Winning** and **How to Play** Bulletin are posted as well. A poster sign stating, on large, clear, bold lettering: "NO DONATION OR PURCHASE NECESSARY TO ENTER THE SWEEPSTAKES TO WIN. MAKING A DONATION DOES NOT INCREASE OR ALTER YOUR ODDS OF WINNING."

Should a patron wish to make a donation while at the Center, this can be done at the Cashiers Counter or at an automated donation kiosk.

The Charitable Donation Sweepstake Center will operate seven days a week. Hours of operation will be from 10:00a to 10:00p Monday – Thursday; 10:00a to 12:00a Friday and Saturday; and 12:00p to 5:00p on Sunday.

**g. The off street parking and loading requirements.**

None needed.

**h. The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated.**

Except for moderate noise when game terminals are playing, no other concern will be generated.

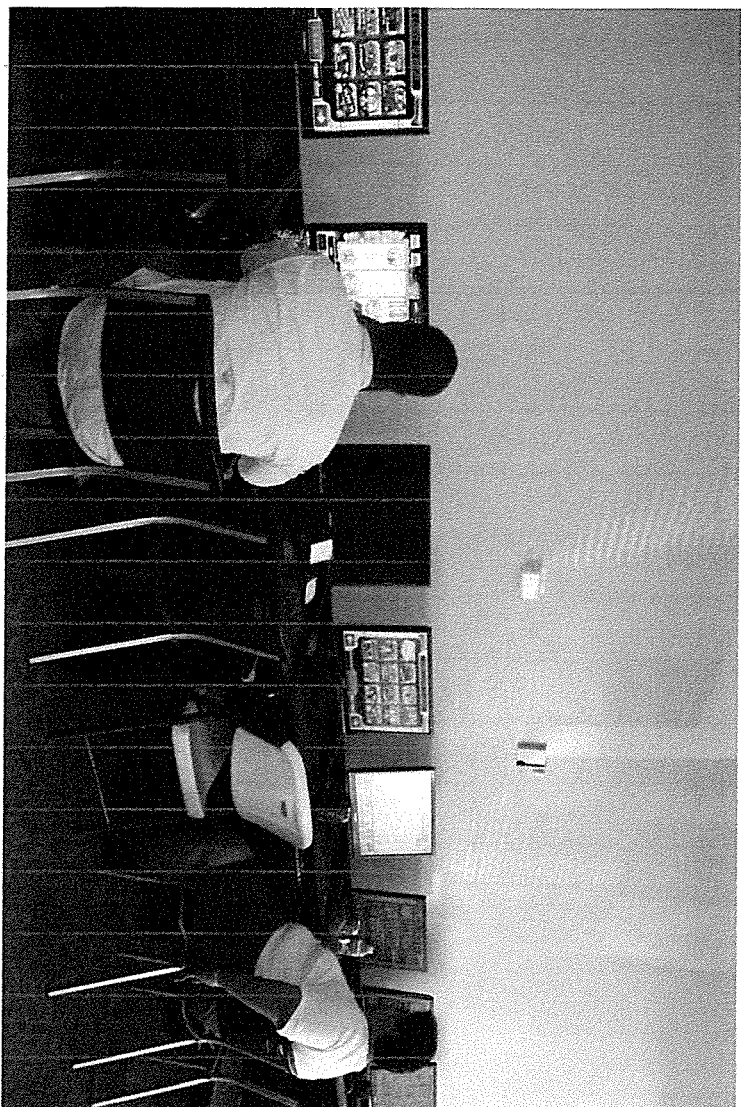
**i. The requirements for public utilities such as sanitary sewer and water and any special public services that may be required.**

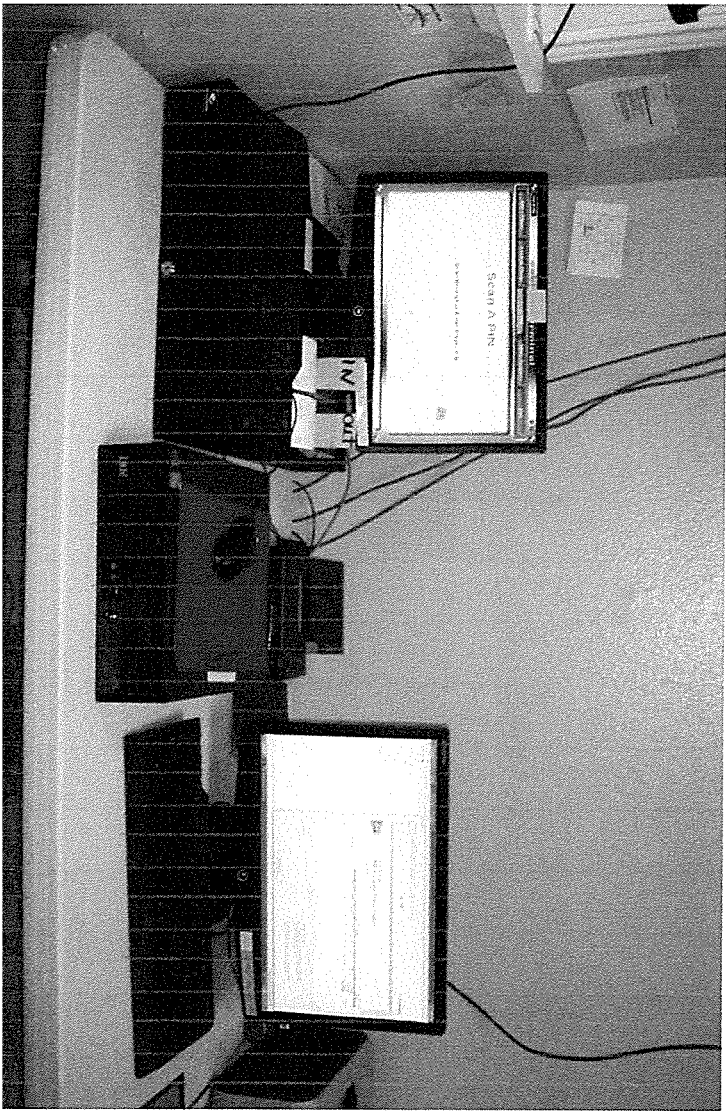
Public utilities such as sanitary sewer and water as well as garbage collection will be required. It is anticipated that 2 bathrooms (commode and sink) will be needed.

**j. Impervious surface coverage or anticipated size of building.**

Approximately 15 parking spaces will be needed. Concrete parking lot close to the Charitable Donation Center is preferred. The size of the building to accommodate up to 40 game terminals will be approximately 1500 sq. ft.







Mortgage Details		Mortgage Amount		Mortgage Term	
Mortgage Number	123456789	Mortgage Amount	\$100,000.00	Mortgage Term	30 Years
Interest Rate	5.00%	Monthly Payment	\$599.55	First Payment Due	01/01/2000
Loan-to-Value Ratio	80%	Current Balance	\$80,000.00	Next Payment Due	02/01/2000
Property Address	123 Main St, Anytown, CA 90210	Current Interest	\$500.00	Current Principal	\$399.55
Property Description	Single-Family Home	Current Tax	\$100.00	Current Insurance	\$50.00
Property Value	\$125,000.00	Current Fees	\$50.00	Current Total	\$1,100.00
Property Age	10 Years	Current Status	Active	Current Remarks	
Property Type	Residential	Current Owner	John Doe	Current Agent	Jane Smith
Property Status	Owned	Current Lender	ABC Mortgage Co.	Current Broker	XYZ Realty Inc.
Property Location	Los Angeles, CA	Current Refinance	No	Current Remarks	
Property Features	2 Bed, 2 Bath, Hardwood Floors	Current Remarks		Current Remarks	

**THE CHANCES OF WINNING**

PARTICIPATION IN THE DISSENT ACTS (ONE MUST BE PARTICIPANT)  
FULL AND UNCONDITIONAL ACCEPTANCE OF THESE IDEALS

PARTICIPATION IN THE DISSENT ACTS (ONE MUST BE PARTICIPANT)  
FULL AND UNCONDITIONAL ACCEPTANCE OF THESE IDEALS



# FRONTIER SWEEPSTAKES NUMBER OF PRIZES AND ODDS OF WINNING

Game Theory, 5-year 20-Year

Prize	Quantity	Odds of Winning
\$100,000	1	1 to 1,000,000
\$50,000	2	1 to 500,000
\$25,000	5	1 to 200,000
\$10,000	10	1 to 100,000
\$5,000	20	1 to 50,000
\$2,500	40	1 to 25,000
\$1,000	80	1 to 12,500
\$500	160	1 to 6,250
\$250	320	1 to 3,125
\$125	640	1 to 1,562
\$62.50	1,280	1 to 781
\$31.25	2,560	1 to 390
\$15.62	5,120	1 to 195
\$7.81	10,240	1 to 97
\$3.90	20,480	1 to 49
\$1.95	40,960	1 to 24
\$0.97	81,920	1 to 12
\$0.49	163,840	1 to 6
\$0.24	327,680	1 to 3
\$0.12	655,360	1 to 1.5
\$0.06	1,310,720	1 to .75
\$0.03	2,621,440	1 to .375
\$0.01	5,242,880	1 to .1875

Game Theory, 5-year 20-Year

Prize	Quantity	Odds of Winning
\$1,000,000	1	1 to 10,000,000
\$500,000	2	1 to 5,000,000
\$250,000	5	1 to 2,000,000
\$100,000	10	1 to 1,000,000
\$50,000	20	1 to 500,000
\$25,000	40	1 to 250,000
\$10,000	80	1 to 125,000
\$5,000	160	1 to 62,500
\$2,500	320	1 to 31,250
\$1,000	640	1 to 15,625
\$500	1,280	1 to 7,812
\$250	2,560	1 to 3,906
\$125	5,120	1 to 1,953
\$62.50	10,240	1 to 976
\$31.25	20,480	1 to 488
\$15.62	40,960	1 to 244
\$7.81	81,920	1 to 122
\$3.90	163,840	1 to 61
\$1.95	327,680	1 to 30
\$0.97	655,360	1 to 15
\$0.49	1,310,720	1 to 7
\$0.24	2,621,440	1 to 3
\$0.12	5,242,880	1 to 1.5
\$0.06	10,485,760	1 to .75
\$0.03	20,971,520	1 to .375
\$0.01	41,943,040	1 to .1875

Game Theory, 5-year 20-Year

Prize	Quantity	Odds of Winning
\$1,000,000	1	1 to 10,000,000
\$500,000	2	1 to 5,000,000
\$250,000	5	1 to 2,000,000
\$100,000	10	1 to 1,000,000
\$50,000	20	1 to 500,000
\$25,000	40	1 to 250,000
\$10,000	80	1 to 125,000
\$5,000	160	1 to 62,500
\$2,500	320	1 to 31,250
\$1,000	640	1 to 15,625
\$500	1,280	1 to 7,812
\$250	2,560	1 to 3,906
\$125	5,120	1 to 1,953
\$62.50	10,240	1 to 976
\$31.25	20,480	1 to 488
\$15.62	40,960	1 to 244
\$7.81	81,920	1 to 122
\$3.90	163,840	1 to 61
\$1.95	327,680	1 to 30
\$0.97	655,360	1 to 15
\$0.49	1,310,720	1 to 7
\$0.24	2,621,440	1 to 3
\$0.12	5,242,880	1 to 1.5
\$0.06	10,485,760	1 to .75
\$0.03	20,971,520	1 to .375
\$0.01	41,943,040	1 to .1875

Game Theory, 5-year 20-Year

Prize	Quantity	Odds of Winning
\$100,000	1	1 to 1,000,000
\$50,000	2	1 to 500,000
\$25,000	5	1 to 200,000
\$10,000	10	1 to 100,000
\$5,000	20	1 to 50,000
\$2,500	40	1 to 25,000
\$1,000	80	1 to 12,500
\$500	160	1 to 6,250
\$250	320	1 to 3,125
\$125	640	1 to 1,562
\$62.50	1,280	1 to 781
\$31.25	2,560	1 to 390
\$15.62	5,120	1 to 195
\$7.81	10,240	1 to 97
\$3.90	20,480	1 to 49
\$1.95	40,960	1 to 24
\$0.97	81,920	1 to 12
\$0.49	163,840	1 to 6
\$0.24	327,680	1 to 3
\$0.12	655,360	1 to 1.5
\$0.06	1,310,720	1 to .75
\$0.03	2,621,440	1 to .375
\$0.01	5,242,880	1 to .1875

Game Theory, 5-year 20-Year

Prize	Quantity	Odds of Winning
\$1,000,000	1	1 to 10,000,000
\$500,000	2	1 to 5,000,000
\$250,000	5	1 to 2,000,000
\$100,000	10	1 to 1,000,000
\$50,000	20	1 to 500,000
\$25,000	40	1 to 250,000
\$10,000	80	1 to 125,000
\$5,000	160	1 to 62,500
\$2,500	320	1 to 31,250
\$1,000	640	1 to 15,625
\$500	1,280	1 to 7,812
\$250	2,560	1 to 3,906
\$125	5,120	1 to 1,953
\$62.50	10,240	1 to 976
\$31.25	20,480	1 to 488
\$15.62	40,960	1 to 244
\$7.81	81,920	1 to 122
\$3.90	163,840	1 to 61
\$1.95	327,680	1 to 30
\$0.97	655,360	1 to 15
\$0.49	1,310,720	1 to 7
\$0.24	2,621,440	1 to 3
\$0.12	5,242,880	1 to 1.5
\$0.06	10,485,760	1 to .75
\$0.03	20,971,520	1 to .375
\$0.01	41,943,040	1 to .1875

Game Theory, 5-year 20-Year

Prize	Quantity	Odds of Winning
\$1,000,000	1	1 to 10,000,000
\$500,000	2	1 to 5,000,000
\$250,000	5	1 to 2,000,000
\$100,000	10	1 to 1,000,000
\$50,000	20	1 to 500,000
\$25,000	40	1 to 250,000
\$10,000	80	1 to 125,000
\$5,000	160	1 to 62,500
\$2,500	320	1 to 31,250
\$1,000	640	1 to 15,625
\$500	1,280	1 to 7,812
\$250	2,560	1 to 3,906
\$125	5,120	1 to 1,953
\$62.50	10,240	1 to 976
\$31.25	20,480	1 to 488
\$15.62	40,960	1 to 244
\$7.81	81,920	1 to 122
\$3.90	163,840	1 to 61
\$1.95	327,680	1 to 30
\$0.97	655,360	1 to 15
\$0.49	1,310,720	1 to 7
\$0.24	2,621,440	1 to 3
\$0.12	5,242,880	1 to 1.5
\$0.06	10,485,760	1 to .75
\$0.03	20,971,520	1 to .375
\$0.01	41,943,040	1 to .1875

**MINUTES OF THE REGULAR MEETING OF THE  
SAN MARCOS PLANNING AND ZONING COMMISSION  
COUNCIL CHAMBERS, CITY HALL  
June 22, 2010**

**1. Present**

**Commissioners:**

Sherwood Bishop, Chair  
Bill Taylor, Vice-Chair  
Randy Bryan  
Bucky Couch  
Jude Prather  
Curtis O. Seebeck  
Jim Stark  
Chris Wood  
Travis Kelsey

**City Staff:**

Chuck Swallow, Development Services Director  
Matthew Lewis, Development Services Assistant Director  
Francis Serna, Recording Secretary  
Sofia Nelson, Senior Planner  
Phil Steed, Planner  
John Foreman, Planner  
Abigail Gillfillan, Planner

**2. Call to Order and a Quorum is Present.**

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Bishop at 6:00 p.m. on Tuesday June 22, 2010 in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

**3. Chairperson's Opening Remarks.**

Chair Bishop welcomed the audience.

**4. NOTE:** *The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session;*

**5. Citizen Comment Period**

Diane Wassenich, 11 Tanglewood, said she objected to using the word "SmartCode" constantly because you should not name something to change people's minds before they have time to learn about it. Ms. Wassenich commented that the SmartCode was too much change at once. She commented that the citizens have a lot of questions about the SmartCode. Ms. Wassenich mentioned that the city is already 75-80% apartments and that's all anyone wants to build anymore because you can make a lot of money on a piece of land for apartments. She added that there are a lot of commercial uses that are incompatible with neighborhoods. She stated she

understands that the city wants density and make pedestrian friendly place to live. But, density is not the only thing that makes an area pedestrian friendly. Ms. Wassenich told the Commission that they should be asking if the downtown area currently allowing a certain number of bars compared to two bars per block going to be more than what it is now. She asked if there would be twice the number of bars in downtown. Ms. Wassenich advised the Commission to look closely at any section of the code that states, Director approval.

James Baker 727 Belvin, asked the Commission to vote against the SmartCode outside the downtown area. He stated that he is one hundred percent in support of the Downtown Master Plan and hopes to see great improvements from the Plan. Mr. Baker said that he read the Downtown Master Plan carefully and noted that it does not state that transect coding for areas outside of the downtown area. Mr. Baker stated that the notice given for the Charrette did not indicate zoning changes outside the downtown study area. He said property owners do not buy homes to live next to businesses. He said if his property is zoned to T4 a bar or restaurant can be open by right within twenty five feet of his home. Mr. Baker stated that the DRC (Development Review Committee) is unknown number of people from each regulatory agency having jurisdiction over permitting of a project that can be processed administratively. He commented that the DRC takes away basic remedy for property owners against drastic building use changes adjacent to their properties. Mr. Baker asked the Commission to vote against the applying the SmartCode outside the downtown area.

Polly Wright, 1134 W. Hopkins, stated that her concern is strictly for the heritage part of San Marcos. She said that the Heritage Neighborhood does not want any more businesses. Ms. Wright explained that they have worked hard to create a historic district and would like to keep it that way. She asked the Commission to please leave the heritage neighborhoods alone. Ms. Wright pointed out that alot of people come to San Marcos to visit the heritage neighborhoods.

Thea Dake, 220 N. Johnson Avenue stated she was present to protest the City's plan adoption of the SmartCode. She stated that she and her husband moved to San Marcos because of its charm, size and it's Historical District. Ms. Dake said she serves on the Historic Preservation Commission and the Historic Association of San Marcos. She felt that the City does not have the same agenda as many of its residents as it applies to the SmartCode. Ms. Dake commented that San Marcos is threatening their neighborhoods instead of protecting them making it easier for them to deteriorate and decline. She mentioned that she felt the notification was inadequate. Ms. Dake stated she was in favor of revitalizing the downtown but should not encroach in established neighborhoods. She felt that the City did not advertise, promote or hold multiple public forums in regards to the SmartCode that affects the entire community. She respectfully requested that the Commission as residents of the community deny the smart code in Historical neighborhoods.

**6. CUP-10-12.** Hold a public hearing and consider possible action on a request by Chase Katz for a Conditional Use Permit to allow on-premise consumption of mixed alcoholic beverages at 336 W Hopkins Street.

Chair Bishop opened the public hearing. Chase Katz, 225 Comanche, spoke in support of the request. He pointed out key points why he felt the business is ideal for the location; the business will restore a historic building in downtown. Mr. Katz stated that he has spoken to the neighbors, Crystal River Inn. Mr. Katz explained that they have made improvements by removing the U-Haul truck and sand blasting the building. He said another key point is that they are not requesting amplified music. In addition, the business lends itself to walkability and bike ability in the area. He added that they will have a unique garden. Mr. Katz stated that he would be available to answer questions.

Brenda Smith, owner of 321 W. Hopkins, asked what type of surface would be used on the parking lot. Chase Katz stated that he is planning on keeping the parking lot as it is. There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Prather and a second by Commissioner Couch, the Commission voted all in favor to approve CUP-10-12 with the conditions that the CUP shall be valid for an initial approval period of one (1) year, provided standards are met, subject to the point system; the applicant shall submit plans and an application for the facility to the Health Department, meet all State Food Rule Requirements, obtain Food Handler Training for employees, and request a permit inspection; all parking spaces shall meet dimensional requirements in the LDC; any required parking to be located off-site shall receive all required approvals, and the applicant shall plat the property when required by the LDC. The motion carried unanimously.

**7. CUP-10-13.** Hold a public hearing and consider possible action on a request by Jonathan Ellis, for a Conditional Use Permit to allow a hookah bar (smoking lounge) in a Community Commercial (CC) zoning district at 700 N LBJ Drive, Suite 113.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Prather and a second by Commissioner Seebeck, the Commission voted eight (8) for and (1) opposed to approve CUP-10-13 with the condition that the CUP be valid for an initial one (1) year period to evaluate the impact on the neighborhood. The motion carried. Commissioner Stark voted no.

**8. CUP-10-14.** Hold a public hearing and consider possible action on a request by Sean Greenberg, on behalf of Plucker's Wing Bar, for a renewal of a Conditional Use Permit to allow the on-premise consumption of mixed alcoholic beverages at 105 N IH 35.

Chair Bishop opened the public hearing. Mr. Rich Patel, 811 S. Guadalupe, owner of the hotel next door to Plucker's, stated that at the last meeting, he had a lot of complaints due to loud music. Mr. Patel advised the Commission that since the last meeting, he has not received any complaints and that there has not been any music played in the last six months. He pointed out if there wasn't any loud music, he did not have any issues.

Shawn Greenberg, 2000 Mistlewood Drive, Austin, TX, 78746 stated that he met with Rich and discussed numerous items and worked out some solutions. Mr. Greenburg explained that they moved speakers around and made sure the music was cut off at the appropriate times. He commented that they are not a rock bar but a beer garden atmosphere that people can come and enjoy. There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Taylor and a second by Commissioner Seebeck, the Commission voted all in favor to approve CUP-10-14 with the conditions that the CUP be valid for two (2) years; live music be played no later than 10:30 PM Sunday through Wednesday, 11:00 PM on Thursday, and midnight on Friday and Saturday; and the applicant comply with the noise standards as they exist or as amended. The motion carried unanimously.

**9.** Hold a public hearing and consider action on amending the Land Development Code to include a provision establishing a new Section 4.2.2.9 entitled San Marcos SmartCode and Transect Zones.

Matthew Lewis gave a brief explanation of the San Marcos SmartCode.

Chair Bishop opened the public hearing.

Wayne Kramer, 733 Belvin, commented that the SmartCode did not work for other cities and doesn't feel it has a place in San Marcos. Mr. Kramer stated that the Downtown Master Plan does not include the Historic Districts. He felt that the SmartCode is not a community vision and the neighborhoods do not support mixed use neighborhoods. He said that the current zoning works and that the SmartCode may help downtowns that are vacant. Mr. Kramer pointed out that San Marcos received the 1<sup>st</sup> Ladies Treasure Award because what San Marcos is not what San Marcos is going to be. He said San Marcos received the award because of the quality of the local neighborhoods and because we have a vibrant downtown. Mr. Kramer asked the Commission to reject the request.

Charles Blue, 1001 W. San Antonio Street, stated he has enjoyed his property for the last 27 years. He pointed out that he does not see a problem with implementing the SmartCode to the downtown area. Mr. Blue stated his concern is with the T4 being dropped in the middle of the residential area. He added that the building height requirements in T4 allow two to three stories and a few taller buildings. Mr. Blue explained that the alleyway is the boundary between his backyard and the T4 zoning. He feels that a Sanctuary Lofts will be created in his back yard. Mr. Blue commented that we are not in a position to make decisions outside of the downtown area.

Diana Baker felt that they did not know that public forums were being held nor what was going on. She pointed out that what bothers her most is that she has not had time to read the SmartCode and the process. Ms. Baker stated that people of the community are being violated.

Jene Baggett, 726 W. Hopkins stated that she received notice and she lives in the Heritage Neighborhood. Ms. Baggett said that she attended three or four of the charrettes. She mentioned that there were approximately 20-25 folks that attended the meeting that she attended. Ms. Baggett said that she decided to educate herself regarding the new Code. She researched online at other cities that are in the process of implementing the Code. Ms. Baggett pointed out that the City of Hutto added a Historic Zone. She added that Farmers Branch, Texas is the shining star of Code in which they have won numerous awards. Ms. Baggett mentioned that she called the Andy Gillis, Director of Planning, Farmers Branch, Texas and asked how it was working for their city. She explained that it is working for Farmers Branch because they targeted small areas to initiate the Form Based Code. Ms. Baggett said she was against the request.

Rodney VanOudekerke stated that initially he was advised that the SmartCode was for the downtown area. He pointed out that he previously was Chair of the Historic Preservation Commission and is in support of anything that will help downtown. Mr. VanOudekerke stated that he received the notice and did not understand it and could not read the map on the back. He pointed out that he does support the SmartCode in the downtown area but is not in support the SmartCode being applied to the neighborhoods. He asked the Commission to take time to reevaluate the request. He said the neighborhoods are fine.

Peter Bowman, 716 W. Hopkins asked how zoning was done. He said his property went from residential to T4 (Commercial), which does not make sense to him. Mr. Bowman explained that he can currently walk to a variety of locations and businesses in town. He added that he was confused when he heard that City Offices plan to move to Hunter Road. Mr. Bowman added that he would like answers to questions and that there was need for additional consideration before a decision was made. He said he thinks starting downtown is a good start but leave out of neighborhoods.

Dave Newman, 128 E. Holland Street, stated he was present on behalf of The Main Street Board Design Committee stated that they had a visit from Planning staff at the Board meeting. Mr. Newman stated that they have concerns with the downtown area which include lack of architecture standards in the Form Based Code; height of buildings, the Main Street Board consensus is to keep the height to four stories; and the conditional use permit aspect of the Code. He explained that the patrolman for the downtown area have relayed their concerns regarding incidents in the downtown area. He stated that the 2:00 a.m. bar hours are causing more

problems that the police can handle. Mr. Newman commented that they would like to keep the CUP process.

Ron Yager, resident of San Antonio Street explained that in 1981 he was instrumental in creating the San Antonio Historic District and assisted in drafting the Ordinance. He said that the idea at the time was to preserve what they had when there were several encroachments going on. He pointed out that the area was not near as nice as it is now. Mr. Yager stated they took the matter into their own hands and resolved the problems. Things are better except for the intrusions that have come by the side streets which are not part of the Historic District.

Rose Robles owns property in front of Mana's asked what the intentions for the property are. Staff explained that T3 zone is residential and that the transect for the area is single family. Sofia added that it is important to mention that an allowance for a small retail establishment on a corner lot that is required to serve 300 homes.

Monica McNabb, speaking on behalf of the Government Affairs Committee for the San Marcos Area Board of Realtors said their issue is specific to the Downtown as defined by the Master Plan and new development. She said if the intent is to enhance downtown; prevent sprawl; reduce environmental impact and increase community which are all great objectives. However, she stated that the SmartCode contradicts the objects that are laid out in the Code. Ms. McNabb stated that since the Code was not available until last Thursday, she strongly encouraged the Commission to revise the DUA matrix. She provided a memo to the Planning Commission.

Karen Smith stated that she and her husband, Grayson live at 620 W. San Antonio Street for twenty years, which is located in the San Antonio Historic District. She explained that her house is currently zoned single family and that the SmartCode map proposes T4. Ms. Smith stated that her home is 122 years old and over an acre of land. The home is registered in the National and State Registry. She added that she had a lot of questions and concerns that she could not get answered by the time of the meeting. Ms. Smith asked the Commission to hold off on the approval of the SmartCode in any areas other than the downtown area.

Amy Kirwin, 1141 Martin Luther King stated she was happy with the SmartCode in general with the downtown area. She explained that she has had many phone calls from residents in Victory Gardens, Dunbar, Heritage and Westover regarding the T zones and what they mean. She stated that the residents have not heard about the SmartCode. Ms. Kirwin commented that she thinks that the Commission should postpone the request to allow more education in the neighborhoods.

H.C. Kyle, 711 W. San Antonio Street stated that his backyard is looked down on by apartments next door. Mr. Kyle explained that he lives in a big old house and asked if he doesn't change the appearance of the home, how many people are allowed to lease the house. Staff advised Mr. Kyle that T4 is proposed unrestricted for single family occupancy restrictions. Mr. Kyle stated he grew up in the house and told the audience not to let it happen.

Shawn Welch, 529 Harvey Street stated that he attended the Charrette's in April. He said he is interested in the SmartCode and that there are many interesting ideas about it. Mr. Welch explained that when he went to the meetings he did not think that we would be in an adoption stage at this time. He said that the process is moving too fast and should be slowed down. Mr. Welch felt that staff should get input from neighbors because he doesn't think anyone on his street was advised. He commented that they are not part of the historic district.

Jackie Albright, 726 W. San Antonio Street commented that she wanted to explain what happens in T4 zoning. She explained that the old Simmons House on Endicott Street is a small three bedroom, two bath house that was occupied by six people. Ms. Albright further explained that before the owners moved, they built an art studio, which housed four or five people. She pointed out that an old oak tree died and has been recently removed. Ms. Albright added that when she was moving along the fence line of the property she was attacked by bees living in a hollow tree on the property. She also mentioned that a day care facility is located across from her property facing Hopkins Street.

Matt Chambers, 160 S. Fredericksburg, stated he was representing citizens who were part of the meeting and Charrette's and is very appreciative of the democratic process. He said he is hearing from a lot of people who did not attend the meetings and who are in the neighborhoods. He understands that the process began with the Downtown Master Plan which evolved into including the Historic Districts. Mr. Chambers continued as an owner of three downtown properties, he does encourage that the downtown district continue forward and that the proposal for the Form Based Code in the Historic District not impede development in the downtown area. He added that he is impressed with the City and the process.

Jake Walden, 1017 Burleson Street, which is not included in the proposed zoning, stated that he has been in construction his whole life and has dealt with Planning Commissions, Planning and Development, and Capital Improvements. Mr. Walden explained that he has seen what this type of system can do to a neighborhood. He said it would be wonderful in downtown and has seen it work. Mr. Walden added that he has seen what it has done to historic districts and commented that the Commission should be careful, slow down and think about what they are doing. He mentioned that he knew that the code has been in the works for two years but this is the first he has heard of it.

Sharon Stewart stated that she and her sister own the property at the corner of Mitchell Street and MLK. She said that there have been plenty of people that have asked them what they are going to build on the property and if it's going to be a three story building. She felt it necessary to attend the meeting and listen to what people had to say. Ms. Stewart mentioned that she currently lives in Driftwood. She mentioned that it is interesting and a good thing to bring in new concepts of community. She stated that one main reason for wanting to keep the property in her family is that she wants to maintain the integrity of the land. She pointed out that the house was built in 1925. Ms. Stewart stated that there are ways to make walkable communities that have various corner store properties that will fit into the area. She pointed out that sometimes communities get stuck and not move forward. She said it is very important to look at other communities and see what and how they have created walkable communities.

Speaker name unknown, resident at the corner of Bishop and Belvin Streets stated that the Charrette's were completely off his radar. He said that the SmartCode has serious flaws and needs considerable revision. He pointed out that the property next to his is proposed to be zoned T4.5. He added that uses allowed in T4.5 would not allow him to remain living in his home. He also mentioned that he is concerned about the property value of his home. He added that when he bought his house they were looking for a historic home. He asked that if his property must be rezoned that he requests that his property be changed to T3.

There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bryan, the Commission voted seven (7) for and two (2) opposed, to postpone action on amending the Land Development Code to include a provision establishing a new Section 4.2.2.9 entitled San Marcos SmartCode and Transect Zones to the July 27, 2010 Planning and Zoning Commission meeting. The motion carried. Commissioners Stark and Taylor voted no.

10. Hold a public hearing and consider action on a future land use map amendment for an area generally bounded by Oscar Smith Drive, Lindsey Street, University Drive, CM Allen Pkwy, I-35, Dixon Street, Brown Street, Kasch Street and Burt Street from Mixed Use, Open Space, Industrial, Public and Institutional, Heavy Commercial, Neighborhood Commercial, Commercial, High Density Residential, Medium Density Residential, and Low Density Residential to G4(Growth Area 4), G3(Growth Area 3), O1(Open Space 1), or O2(Open Space 2).

Chair Bishop opened the public hearing.

Camille Phillips, resident of Franklin Drive, commented that the SmartCode may be a useful tool downtown but is very opposed to having it in the neighborhoods. She stated that she was offended that people in the Historic District that have money are more important than people in Guadalupe and Victory Gardens whose neighborhoods are not quite as expensive. Ms. Phillips pointed out that she did some research and found that it took Miami four years and four hundred meetings to adopt the code. She felt that the process is moving way too fast. Ms. Phillips pointed out a different issue stating that as of last Tuesday, the City and Craddock Avenue Partners Development Agreement has not been filed at the Hays County Records Building. She said that the City is in violation of their own agreement and State Law.

Rodney VanOudekerke, 323 Scott Street stated he appreciates that the Commission has shown concern and cannot be an easy decision. He pointed out that he is a retired police officer and has never been called wealthy. Mr. VanOudekerke mentioned that we should be careful when talking about homes and neighborhoods. He explained that because his house is 120 years old that is not more important than a house with 100 sq. ft. He mentioned that this is not about money, but what is best for The City of San Marcos.

There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Stark and a second by Commissioner Prather, the Commission voted all in favor to postpone item #10 to the July 27, 2010 Planning and Zoning Commission meeting. The motion carried unanimously.

11. Hold a public hearing and consider action on a zoning change for an area generally bounded by Oscar Smith Drive, Lindsey Street, University Drive, CM Allen Pkwy, I-35, Dixon Street, Brown Street, Kasch Street and Burt Street from MF-24 ( Multi-family), SF-6 ( Single Family Residential), D ( Duplex), TH( Townhouse Residential District), SF-4..5 (Single Family Residential), PH-ZL( Patio Home-Zero Lot Line), PDD (planned development District), P ( Public and Institutional), OP(Office Professional), NC(Neighborhood Commercial) , MU ( Mixed Use), MR( Manufactured Home Restricted), MF-18 (Multi-Family), MF-12 ( Multi-Family), LI (Light Industrial), HI (Heavy Industrial), HC (Heavy Commercial), GC (General Commercial), D (Duplex), CC (Community Commercial), CBA (Central Business Area) to T1 (transect 1), T2 (transect 2), T3 (transect 3), T3.5 (Transect 3.5), T4 (Transect 4), or T5 (Transect 5).

Chair Bishop opened the public hearing.

Ryan Perkins, 727 W. Hopkins, thanked the Commissioners for their time and willingness to serve the Community. He stated he agrees with his neighbors and asked the Commission to deny the agenda item in order to give the community sufficient time to understand the SmartCode as it pertains to the neighborhoods. Mr. Perkins added that he is in support of the SmartCode as it pertains to the downtown area and specific areas around downtown that may need that identity.

Wayne Kramer, 722 Belvin, echoed Mr. Perkins comments. He felt that the Commission was in agreement to exclude the Historic Districts and asked that they include the request in their motion. Mr. Kramer felt that the SmartCode should be presented to the neighborhoods and let them decide what provisions they want in the neighborhoods.



Grace Neil, resident at the corner of Endicott and Martin Luther King stated that she did not receive a notice and a few years ago she was not in the Historic District. She added that the new map indicates she is currently in the Historic District. Ms. Neil commented that she does not understand why Dunbar is being considered part of the SmartCode.

Gloria Deladillo, 327 S. Guadalupe St., said the property is currently residential and doesn't understand what it has to do with the SmartCode. She added that she doesn't approve of the SmartCode because she doesn't understand it. She felt that people want to protect their property. Ms. Deladillo commented that the SmartCode would be fine in the downtown but not in residential areas. She added that she would like to know what is going to happen with the burned down building adjacent to the back of her property.

Peter Bowman, 716 W. Hopkins, thanked the Commissioners for their work on the SmartCode and their consideration. In addition, he asked the Commission to consider denying the request. He felt that there are issues with residential homes changing to commercial. Mr. Bowman stated that he would like to defuse the comment that all the people who live in the Historic District are rich people because not all people are rich in the Historic Districts.

Camille Phillips commented that if she gave the impression of us against them, she apologized. She mentioned that there are far more people present from the Historic District than from Victory Gardens or East Guadalupe. Ms. Phillips pointed out that people in Victory Gardens or East Guadalupe are as equally important neighborhoods.

Unknown speaker asked the Commission to deny the request. He suggested that the SmartCode be structured to exclude the Historic Districts and only include Downtown.

Virginia Araba, 613 Moore Street, stated she is open to new and bettering downtown San Marcos. She is not clear and asked if they could have more time and be better educated on the SmartCode. Ms. Araba asked the Commission to postpone the request to allow her time to understand the SmartCode.

There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Stark and a second by Commissioner Couch the Commission voted all in favor to postpone the request to the July 27, 2010 Planning and Zoning Commission meeting. The motion carried unanimously.

There was a 15 minutes recess.

**12.** Hold a public hearing and consider revisions to the following sections of the Land Development Code: Section 1.6.1.3 Platting Exemptions, Section 1.6.6.6- Maintenance and Warranty of Improvements, Table 4.1.6.1, Land Use Matrix, Section 5.5.1.1 Tree Preservation Standards, Section 6.7.2.1 Lot Size Minimum, Section 6.4.2.1 Noise Ordinance, Section 6.2.1.1 Off Street Parking Standards, Section 4.5.3.7 Special Exception Requirements, Section 7.4.2.3 Sidewalk Requirements, Section 7.4.1.4- Street lighting requirements, Chapter 5 Water Quality Standards and Chapter 8 Glossary.

Chair Bishop opened the public hearing.

Monica McNabb, Government Affairs Chair for the entire Board of Realtors stated they had an opportunity to meet with Mr. Lewis and staff for about two or three hours which was very productive. She added that they worked through allot of issues. Ms. McNabb referred to a memo she provided to the Commission and requested that the Commission table the sections marked yellow and approve the sections marked green. She thanked staff for the time spent to review the proposed revisions to the Land Development Code.

There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Stark and a second by Commissioner Bryan, the Commission voted all in favor the revisions to the following sections of the Land Development Code: Section 1.6.1.3 Platting Exemptions; Section 1.6.6.6- Maintenance and Warranty of Improvements; Table 4.1.6.1, Land Use Matrix with the exclusion of IH-35 Overlay; Section 6.7.2.1 Lot Size Minimum; Section 6.4.2.1 Noise Ordinance; Section 6.2.1.1 Off Street Parking Standards; Section 4.5.3.7 Special Exception Requirements; Section 7.4.2.3 Sidewalk Requirements; and Chapter 8 Glossary. The motion carried unanimously.

**13.** Hold a public hearing and consider action on a proposed Pro-Rata Assessment Ordinance.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Wood and a second by Commissioner Prather, to recommend to City Council the approval of the Pro-Rata Assessment Ordinance. The Commission voted all in favor. The motion carried unanimously.

**14. Discussion Items.**

Commission members and staff may discuss and report on items related to the Commission's general duties and responsibilities. The Commission may not take any vote or other action on any item other than to obtain a consensus regarding items that will be placed on future agendas for formal action.

There were no items discussed.

**Planning Report**

There was no Planning Report.

**Commissioners' Report**

There was no Commissioner's Report.

**15. Consider approval of the minutes from the Regular Meeting of June 8, 2010.**

**MOTION:** Upon a motion made by Commissioner Wood and a second by Commissioner Prather, the Commission voted all in favor to approve the minutes from the Regular Meeting of June 8 2010. The motion carried. Commissioner Couch abstained.

**16. Questions and answers from the Press and Public.**

There were no questions from the press and public.

### **13. Adjournment**

Chair Bishop adjourned the Planning and Zoning Commission at 9:40 p.m. on Tuesday, June 22, 2010.

\_\_\_\_\_  
Sherwood Bishop, Chair

\_\_\_\_\_  
Bill Taylor, Commissioner

\_\_\_\_\_  
Jim Stark, Commissioner

\_\_\_\_\_  
Jude Prather, Commissioner

\_\_\_\_\_  
Chris Wood, Commissioner

\_\_\_\_\_  
Curtis Seebeck, Commissioner

\_\_\_\_\_  
Randy Bryan, Commissioner

\_\_\_\_\_  
Bucky Couch, Commissioner

\_\_\_\_\_  
Travis Kelsey, Commissioner

ATTEST:

\_\_\_\_\_  
Francis Serna, Recording Secretary